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FEDERAL COMMUNICATIONS COMMISSION

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F.C.C. 73-1037

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of

FORMULATION OF RULES AND POLICIES RELATING TO THE RENEWAL OF BROADCAST LICENSES	Docket No. 19153 (RM-1737)

FINAL REPORT AND ORDER

(Adopted October 3, 1973; Released October 11, 1973)

BY THE COMMISSION: COMMISSIONER ROBERT E. LEE ABSENT; COMMISSIONERS JOHNSON, H. REX LEE, AND WILEY CONCURRING AND ISSUING STATEMENTS; COMMISSIONER REID CONCURRING IN THE RESULT.

1. The Commission has before it (1) a Notice of Inquiry and Notice of Proposed Rule Making (36 FR 3902) adopted February 17, 1971, (2) comments, reply comments, and other materials filed in response to the Notice,[1] (3) an Interim Report and Order adopted May 1, 1973, and (4) a revised Section IV–B of Form 303 and a new Annual Programming Report (Form 303–A), both of which have been approved by the Office of Management and Budget. The proposals in the Notice were set out in four separate sections. This FINAL REPORT AND ORDER treats each of the sections separately and in the same sequence as they appeared in the Notice.

2. All of the matters raised in comments and reply comments were reviewed in detail and those that related to more than one section of the Notice were fully considered with respect to each relevant section. We have not, however, attempted to address ourselves to each and every comment and our treatment of questions by categories encompasses consideration of all of the individual variations set forth in the separate comments.

I. PROPOSED RULE MAKING TO REQUIRE THE BROADCASTING OF NOTICES REGARDING THE MANNER IN WHICH THE PUBLIC MAY EXPRESS OPINIONS ABOUT BROADCAST SERVICE AND THE MAINTENANCE OF A LOCAL PUBLIC FILE OF OPINIONS RECEIVED BY LICENSEES

The Commission Proposal

3. In the first portion of the Notice, the Commission proposed to amend Part 73, Subpart H of its Rules, by adding as Section 73.1202 a

[1] Approximately 65 parties participated in the proceeding. They are listed in Appendix A. If a "party" consisted of two or more entities making a joint filing, the names of the entities are listed under the name of the lead entry. The short designation of every party referred to in the present document appears in parenthesis following the full name in Appendix A.

104-012—73——1

requirement that all commercial broadcast stations air a notice to the public informing them of their interest in station performance and of the appropriate manner in which to express their satisfaction or complaints with station operation. The Commission indicated that the purposes of these announcements were to ensure that: (1) the licensee would remain conversant with and attentive to community problems and needs throughout the license period; (2) the licensee would make known to the public his responsibility to continually ascertain the most significant problems and needs of his service area and to present programs designed to deal with these problems and needs; (3) the public would be continually encouraged by the licensee to make comments, complaints and suggestions regarding the operation of the station; (4) any complaints regarding the operation of a station would be communicated to the licensee immediately and every effort would be made during the license period by both the complainant and the licensee to resolve differences and problems through discussion on the local level. New Section 73.1202 of the Commission's Rules would read as follows:

> 73.1202 Public Notice of Licensee Obligations.
>
> Each licensee of a commercial AM, FM, or television station, except international or television translator stations, shall make an announcement informing the public of the licensee's obligation to the public and of the appropriate method for individuals to express their opinions of the station's operation. Such announcement shall be given at least once every eighth day throughout the license period except during the period from six months prior to expiration of the license to 30 days prior to expiration, during which time the renewal application notices in Section 1.580 of the Commission's Rules shall be broadcast. Such announcements shall be aired during the following time periods:
>
> (1) For commercial television broadcast stations, between 8:00 P.M. and 10:00 P.M.
>
> (2) For commercial AM and FM broadcast stations, between 7:00 AM. and 9:00 A.M., but if such stations do not operate during these hours, then between 4:00 P.M. and 7:00 P.M.

In the case of commercial television broadcast stations, such notices shall be broadcast orally with camera focused on the announcer; at the end of the notice, a signboard with the licensee's address for receiving complaints shall be shown.

The announcement shall contain the following information:

> For Commercial Radio Stations:
>
> (a) The station's call letters
>
> (b) A statement that the frequency on which the station operates is public property and that the station was granted on (give date of last renewal grant) a three year license by the Federal Communications Commission in Washington, D.C., to serve the public interest, convenience and necessity.
>
> (c) A statement that the Commission has indicated that service in the public interest obligates the broadcaster to make a continuing, diligent effort to determine the most significant problems and needs in his service area and to provide programming to help meet those problems and needs.
>
> (d) A statement that to remain informed of the adequacy of its performance the station requests its viewers or listeners to inform it of their opinions, criticisms or suggestions.
>
> (e) A request that comments regarding the station's performance be as specific as possible.

(f) The appropriate name and address to which comments should be mailed.

(g) A statement indicating that comments may also be sent to the Federal Communications Commission, Washington, D.C. 20554.

For Commercial Television Stations:

(a) The station's call letters.

(b) A statement that the frequency on which the station operates is public property and that the station was granted on (give date of last renewal grant) a three year license by the Federal Communications Commission in Washington, D.C. to serve the public interest, convenience and necessity.

(c) A statement that the station is required to submit an annual filing with the Commission indicating what the licensee considered during the past year to be the most significant problems and needs of the public which he served and what programs the station aired during the year that were addressed to those problems and needs.

(d) A statement that the above filing is available for public inspection at the station's business office (or station's main location) during regular business hours. Give address and business hours.

(e) A statement that to remain informed of the adequacy of its performance, the station requests its viewers or listeners to inform it of their opinions, criticisms or suggestions.

(f) A request that comments regarding the station's performance be as specific as possible.

(g) The appropriate name and address to which comments should be mailed.

(h) A statement indicating that comments may also be sent to the Federal Communications Commission, Washington, D.C.

During the period between 30 days prior to expiration of the license and the date of license renewal, stations shall broadcast the appropriate announcement herein, except for the mention of the date of the last renewal grant. Commencing on the eighth day following the date of renewal, the regular announcement shall be resumed and be broadcast every eighth day thereafter.

All written comments and suggestions received by the licensee concerning operation of the station shall be maintained in a local file, available for inspection by the public, except when the person making the comment or suggestion has specifically requested that his communication not be made public or where the licensee feels that it should be excluded from availability for public inspection because of the special nature of its content, such as a defamatory or obscene letter. In accordance with Section 1.526 of the Commission's Rules such file shall be kept for seven years. Licensees shall be required to separate written comments by subject categories to facilitate inspection by members of the public. Subject categories shall include comments on technical operation; comments on advertising; comments regarding employment practices; comments complimentary of programming; comments adversely critical of programming; and comments suggesting new programming. If comments in one letter relate to more than one subject category, the correspondence shall be filed under the category which, in the licensee's judgment, receives the most attention in the letter.

The Commission included in the Notice the following sample announcements for commercial radio and television stations which incorporate all of the requirements of proposed Section 73.1202.

Sample Announcement for Television

The channel on which this station operates is public property. On (date of last renewal grant), we were granted a three year license by the Federal Communications Commission to operate this channel in the public interest.

Each year we are required to submit to the Commission a list of what we consider to have been the most significant problems and needs of this community during the past year and the programs we aired during the year that were addressed to those problems and needs. This filing is available for public inspection at our business office (address) during our regular business hours of ____ a.m. to ____ p.m., Monday through Friday.

In order that Station _____ may better serve our viewers, we request that you inform us of any opinions, criticisms or suggestions you may have regarding our station operation. Comments or suggestions should be as specific as possible and should be mailed to (name and mailing address). Your letters will be available for public inspection at our business office unless otherwise requested. Comments may also be sent to the Federal Communications Commission, Washington, D.C. 20554.

Sample Announcement for Radio

The frequency on which this station operates is public property. On (date of last renewal grant), we were granted a three year license by the Federal Communications Commission to operate this frequency in the public interest. We are obligated to make a continuing, diligent effort to determine the most significant problems and needs of this community and to provide programming to help meet those problems and needs.

In order that Station _____ may better serve the needs and interests of our listeners, we request that you inform us of any opinions, criticisms or suggestions you may have regarding our station operation. Comments or suggestions should be as specific as possible and should be mailed to (name and mailing address). Unless otherwise requested, your letter will be made available for public inspection at our business office (address) during our regular business hours of ____ a.m., to ____ p.m., Monday through Friday. Comments may also be sent to the Federal Communications Commission, Washington, D.C. 20554.

Comments Opposing Any Announcements

4. A number of parties express opposition to any requirement of airing broadcast notices informing the public of their interest in station performance and encouraging listeners to communicate their opinions regarding station operation. This opposition is primarily based on three general assertions: first, the announcements are unnecessary; second, the announcements will have undesirable effects; and third, the announcements will not have the effects desired by the Commission. Only NAB maintains that the Commission lacks the authority to require licensees to make the announcements, claiming that the announcements are neither authorized by specific provision of the Communications Act nor by broad powers bestowed by Sections 4(i) or 303(r).

5. Those parties calling the announcements unnecessary contend that licensees are not guilty of ignoring the public or of failing to maintain a dialogue with or concern for listeners, and/or they maintain that the public already knows it can complain to the station or the Commission. Basic, for example, argues that it is simply not true that licensees spend two out of every three years blithely ignoring their publics' voices. Such a course would be completely economically dysfunctional, for when a station ceases to continuously ascertain and serve community needs and interests, people will stop watching and listening. Moreover, says Basic, broadcasters are professionals who take pride in their work. Part of that pride is the meeting of obligations to keep abreast of needs and interests of the service area and then fashioning programs which satisfy those needs.

6. Many stations emphasize in their filings that they are communicating with their community on a continuing basis and have no need of more regulations. Metromedia submits that when viewed in the light of its station's extensive day-to-day effort to maintain a continuous useful exchange of ideas, the Commission's assumption of a lack of continuing dialogue is incredible. KWNA maintains that if a station did not meet community needs, it would soon be out of business and Fetzer believes there is practically no chance any successful licensee could isolate himself from opinions and desires of the local community and expect to be a socially effective force within that community. McClatchy suggests that responsible broadcasters keep informed of problems and needs on their own initiative and if any initiative is needed for others, the Commission already requires a specific program of ascertainment. McClatchy claims there is no evidence existing procedures have broke down.

7. Others maintain the announcement is also unnecessary because the public already knows it can complain to the station and/or the Commission. NAB states the public already knows where to direct comments regarding broadcasting and does not have to be told of its right to complain or to compliment. Group W agrees and says that many people already freely exercise their privilege. Thus the announcements would only repeat what is generally known or assumed by the public and little would be gained by their repeated broadcast. Westinghouse feels the announcements to be particularly unnecessary in light of the notices concerning the filing of the renewal applications proposed in Part III of the Notice, while Paducah believes annual reporting proposed in Part IV of the Notice makes the announcements less necessary for television licensees.

8. North Carolina contends that the increase in "strike applications," informal objections and petitions to deny in recent years clearly suggests the public is fully informed about the right to comment on station performance and to bring matters to the Commission. CBS also notes a perceptive increase in communications from the public and claims there is no need to stimulate these further. Gill maintains there is no reason to believe an increased number of responses would provide more information than is presently being received by licensees, since Gill believes that the comments it has been receiving from the public already present the views of a cross-section of the community.

9. Undesirable effects of the announcements upon listeners and/or licensees are predicted by various parties, although BEST in Reply Comments contends that there are no facts available upon which to base a reasoned analysis of the quantity, quality or nature of the comments that will be generated by the announcements. Louisiana, Kansas, NBC, ABC, GE, KAKC, Metromedia and Paducah expect the announcements to prove an annoyance and irritation to the general public. Paducah says this will be particularly true if the announcements are made as frequently as every eighth day and repeated in the same time period. ACLU feels the announcements would probably be heard as abrasive and condescending rhetoric to some who are offended and discouraged by media insensitivity to their needs and interests.

10. Others fear the announcements would generate crank calls and letters, thereby squandering the staff, resources and time of the licensee and distracting him from his primary task of programming in response to community needs. North Carolina, for example, contends that staffs will be bogged down with frivolous complaints and Corinthian says licensees will drain their energies in fruitless exchanges with dissident, non-representative, irresponsible groups and individuals. WGAL fears broadcasters may feel compelled to yield to organized pressure groups without regard to the merits of their complaints. WRAD and WASA suggest that the burden resulting from the eighth day notices will be particularly great for small stations with their limited staff and resources, while Storer estimates that in the top 22 markets, 165,000 letters a year will be received, thus ensuring that responding to letters will prove a tremendous burden for the large stations as well. Sonderling submits that if the announcements should prove effective in stimulating communications from listeners and viewers, the increased volume of letters received by a station would make the prospects for developing new and meaningful dialogue exceedingly slim. Rather, what could be reasonably expected is that the volume of letters could not be effectively handled.

11. Several parties discuss the financial burden that would be imposed by the airing of the announcements in lieu of commercials. Carter indicates the loss of advertising revenues would jeopardize the ability of its stations to improve or even maintain their public service capability. Paducah calculates that in 1971–72, during five of the seven evenings of the week, NBC affiliates will have as few as three and a maximum of five opportunities for any kind of local announcements between 8:00 and 10:00 P.M., and at most, only two or three opportunities for local sixty second announcements.

12. Undesirable effects of the announcements upon the Commission's workload are also projected. Storer maintains that the number of complaints sent to the Commission as a result of the invitation to do so contained in the proposed announcements might run in the millions. North Carolina says the Commission would be bogged down with frivolous complaints. Louisiana and Kansas notes that according to the yearly reports of the Commission's Complaints and Compliance Division, only 50 of the approximately 60,000 complaints sent to the Commission in 1970 warranted a full investigation. Metromedia fears the increased burden on the Commission's staff would result in increased

license fees, while Norbertine is concerned that the burden on Commission staff would result in letters not being forwarded to the licensee in time to permit effective changes in policy and programming.

13. In addition to comments predicting various undesirable effects of the announcements, comments were received predicting the announcements would have no effect and thus would not achieve the Commission's objectives. The Commission indicated in the Notice that one of the main purposes of the announcements was to promote resolution of complaints at the local level as they arise through discussion between complainant and the licensee rather than through Commission inquiry. The effectiveness of the announcements in achieving this goal was questioned by some parties who claim citizen groups will continue to wait until renewal time to air their complaints because this has proved a successful tactic. WGN notes that those groups who time their protests to correspond with renewal filings because they realize it is then that the broadcaster is most vulnerable, will still be under no obligation to communicate with broadcasters during the license period. NAB maintains that groups use the tactic of avoiding continuing dialogue because the objectives of these groups are not to settle complaints but to stockpile them. The announcements will not contribute to the establishment of a dialogue between stations and local ephemeral groups which are directed and motivated by outside forces. Nor will the announcements reduce or affect the submission of petitions to deny license renewals which are the result of a nationally co-ordinated movement to restructure broadcasting. United Church and BEST say groups have often waited until renewal time to press their complaints because complaints in the middle of the license period generally go unheeded. United Church says that as in collective bargaining, significant changes are discussed only when expiration of control is imminent. Urban Law submits that the Commission offers no verification that licensees would respond to complaints in the absence of an impending renewal and petition to deny.

14. NBC alleges that the existing notice of the filing of renewal applications is ineffective in stimulating dialogue with the community; thus doubts are cast on the advisability of requiring additional announcements throughout the license period. GE, ABC, WSAU–TV and KAKC contend that the existing renewal announcements have not produced meaningful or significant dialogue because dialogue is created through more personal, direct and informal means. Corinthian maintains that the proposed eighth day announcements will be of no more interest to the public than the legal notices of renewal filings now published in the newspapers. Plough states that it has been asking for complaints and suggestions in five radio markets since Spring of 1970 and has received few responses. Plough claims this is because (a) it is easier to switch the dial, (b) because over-the-air comments do not result in comments from listeners, (c) because the public is lethargic, and (d) because only groups are interested in responding. KGUD says it has aired the sample announcement for radio proposed in the Notice as a test. It received one post card and many crank calls.

15. *Conclusions.* With regard to the contention that we lack the authority to require the announcements, we consider new Section

73.1202 of the Commission's Rules (Appendix C of this Report and Order) to be a particularization of the licensee's basic public interest obligation to serve as an outlet for local expression. (See the statutory provisions cited in paragraph 213).

16. As to the necessity of the announcements, we note with some concern that since the issuance of the Notice in February 1971, the number of formal petitions to deny broadcast license renewal applications has continued to increase. The most common complaint raised in recent petitions relates to an alleged failure of the licensee to adequately respond to the problems and needs of at least a significant segment of his service area. In most cases, the specific points raised in these filings were not communicated to the licensee during the first two and one-half years of the license period and little or no dialogue occurred between petitioner and licensee prior to the filing of the renewal application. In requiring the announcements, we are not passing judgments on the merits of the complaints raised in the petitions, nor do we mean to imply any criticism of either licensees or citizen groups. We recognize that, as several parties suggest, rapid social change rather than any irresponsibility, failure or indifference of broadcasters may well have been the major cause of the increase in the number of petitions. But we believe the events of the past two years have merely re-emphasized the need both to ensure that licensees remain conversant with and attentive to community problems throughout the license period, and citizens are encouraged to engage in more continuous dialogue with licensees in order to promote local resolution of complaints as they arise. This is the purpose of the announcements and this is why we believe them to be necessary.

17. Whether the announcements will have the effect desired by the Commission or whether they will have some undesirable effects can only be determined by actual experience. However, given the comments of various broadcasters regarding the importance of knowing the problems and needs of the service area for maintaining a successful station operation, we believe at least some good will result from the announcements. As for some of the projected ill-effects, the changes in the scheduling of the announcements discussed in paragraphs 28 and 31 will reduce the financial burden of airing the announcements and the risk that they will prove an annoyance and irritation to the public. The elimination of the reference in the announcements to sending comments directly to the Commission (see paragraph 38) will reduce the possibilities of the predicted undesirable effects upon the Commission's workload. It will also reduce the danger of letters being unduly delayed in Washington and not being sent to the licensee in time to permit effective changes in policy.

18. The fear that reacting to frivolous and crank comments received from listeners and viewers responding to the announcements will squander the resources of licensees and distract them from their primary task of programming to meet community needs, assumes that comments received will hamper rather than aid the licensee in better determining the problems and needs of his service area and/or the programming which can best deal with those problems and needs.

While it is reasonable to assume that some listener and viewer comments generated by the announcements will be of a nature that might generally be classified as frivolous, to think that the majority of the responses will be of that nature is to cast grave doubts on the intelligence of the general citizen and his ability to communicate his opinions. We do not feel such a conclusion is justified; and, we assume that those licensees whose programming includes programs or program segments in which listeners participate or letters from listeners are read and discussed on the air, as well as those licensees who have long solicited comments from listeners or viewers through various on-air announcements, would agree.

19. We do not believe that either the new renewal announcements proposed in Part III of the Notice or the initiating of annual reporting for television licensees proposed in Part IV of the Notice make the announcements less necessary. The annual listing of problems and needs will, however, provide the interested viewer with a more current and better understanding of the licensee's conception of the problems and needs of the service area and his efforts to meet those problems and needs. This hopefully will in turn lead to more informed and relevant audience feedback, increased dialogue between viewer and licensee regarding problems and needs of the community, and the local resolution of complaints as they arise.

20. Finally, if there is a danger that broadcasters may feel compelled to yield to organized pressure groups without regard to the merits of their complaints, we suggest the danger is more real under present circumstances. With little or no dialogue occurring with potential petitioners until renewal time and with general audience feedback often not being continually solicited and received, it would seem more difficult to evaluate the representativeness of a complaint raised by a group who claims to speak for a significant segment of the community.

The Announcement as a Means of Ascertainment

21. Various parties assume it was the Commission's intention that the mere airing of the proposed announcements would totally fulfill the licensee's obligation to ascertain the problems, needs and interests of the community. Thus, for example, McClatchy says that replacing the familiar and natural methods of ascertainment with mandatory and artificial announcements will not contribute to meaningful dialogue. BEST maintains that while the announcement requirement is a satisfactory supplement to the ascertainment requirements of the Primer [2] it is not a satisfactory substitute. While the Primer requires the licensee to ferret out views and display initiative in seeking two-way communication, with the announcement requirement replacing the Primer requirement the licensee becomes merely a suggestion box. Urban Law thinks eliminating the Primer and substituting the announcements is to shift the burden of initiating and maintaining dialogue from licensee to community. Urban League maintains that abandoning the requirement that licensees demonstrate ascertainment of community problems would be to reverse a policy of many years stand-

[2] *Primer on Ascertainment of Community Needs*, 27 FCC 2d 650 (1971) (36 FR 4092).

ing and would be to seriously weaken, if not destroy the means by which the community can control the use to be made of the public airwaves. Lebanon feels that using the announcements as the only or major means of ascertainment is to destroy the Primer concept of continuing awareness.

22. NOW contends that elimination of the existing ascertainment requirements of the Primer would be particularly crippling to women, since under the Primer, recognition of women as a significant group to be ascertained is practically guaranteed. Urban Law, United Church and Baldwin consider the requirement of submitting complaints and suggestions to the stations in writing to discriminate against the illiterate and the disadvantaged, and to make it unlikely that the busy community leader will spend time communicating with licensees. NAB argues that relying on reaction to such announcements would tend to undermine the random sampling feature of the Primer. CBS suggests that the Commission wait and see how things work under the Primer before instituting the announcement requirement, because direct contact of licensees with leaders and members of the public is to be preferred.

23. *Conclusions.* In proposing the announcement rule we never intended to imply that the airing of the announcements would totally fulfill the licensee's long standing obligation to make a positive, diligent and continuing effort to ascertain the tastes, needs and desires of the public in his service area (*En Banc Inquiry re: Programming*, 25 FR 7295 (1960)). We did in Part IV of the Notice propose a revision of the system by which a television licensee reports on the problems and needs of his community, a revision which would eliminate existing Part I of Section IVB of Form 303. However, the inclusion of Questions 3 and 6 in the proposed new Section IVB of Form 303 for television renewal applicants which was presented in the Notice (and the absence of any proposed new Section IVA of Form 303 for radio renewal applicants) reflected our intention that the announcements would be only one means by which television licensees ascertained community needs. Thus Question 3 of the proposed new Section IVB of Form 303 asked the television renewal applicant to describe the methods by which during the past three years he determined the problems and needs of the public served by his station, while Question 6 asked if the applicant planned during the next renewal period to change the methods described in the answer to Question 3 for determining problems and needs, and, if so, to describe these changes.

24. We agree with the objections to relying on the announcements as the sole method of ascertainment raised in the filings. Such reliance would indeed shift the burden of initiating and maintaining dialogue from licensee to community and would reverse a policy of many years standing. Such reliance would also result in a bias in the sample of the community whose views were ascertained, such bias to include discrimination against the illiterate. And, as CBS indicates, direct face-to-face contact between licensee and leaders and members of the public is certainly to be preferred. Thus we cannot emphasize too strongly that the announcements are designed to supplement and not replace the existing means by which community problems and needs are pres-

ently being determined, including fact-to-face contacts. Further discussion regarding ascertainment requirements for television licensees may be found in Section IV of this Report and Order in paragraphs 122–131, 177–185. Radio licensees are, pending the outcome of our formal Inquiry regarding ascertainment (Docket 19715), still subject to the requirements of Part I of Section IVA of Form 303 and the *Primer on Ascertainment of Community Needs* issued in February 1971.

Time of Day of the Announcements

25. In the Notice the Commission specifically welcomed comments on the appropriate time periods for airing the announcements and on whether all or merely a substantial percentage of the announcements should be required within the proposed specified periods (8–10 P.M. for television and 7–9 A.M. for radio) of maximum viewing or listening. Several parties suggest that the time periods now used for announcements notifying the public of the filing of renewal applications (7–10 P.M. for television and 7–10 A.M. for radio) be used for the eighth day announcements. CBS recommends 6–11 P.M. for television and 6–10 A.M. for radio while Dempsey & Koplovitz suggests 6–11 P.M. for television with rotating 2 hours segments (e.g., 6–8 P.M., then 7–9 P.M., then 8–10 P.M., then 9–11 P.M. and then start again with 6–8 P.M.). Corinthian suggests 6–11 P.M. for television and North Carolina recommends 6–11 P.M. for television and 7–10 A.M. or 4–7 P.M. for radio.

26. Other parties suggest that a certain percentage of the announcements be aired during non-prime time hours. NBC recommends that at least 50% of the announcements be aired between 6–11 P.M. for television and 7–10 A.M. or 3–7 P.M. for radio, and the remainder be aired anytime between 8 A.M. and 1 A.M. Cohn & Marks favors 50% between 5:30 P.M. and midnight for television and 7–9 A.M. for radio, and the rest anytime between 5 A.M.–midnight. McClatchy suggests that a certain percentage (e.g., one-third) of the announcements be in prime time and the rest anytime. Plough says that only "a certain percentage" should be aired during prime time. Baldwin recommends that every fourth or fifth television announcement be in daytime or late evening. Paducah submits that the announcements should be scattered throughout the day on a rotating basis 9–11 A.M., 11 A.M.–1 P.M., 1–3 P.M., etc.) KRGV–TV recommends that the announcements be aired on a Run of Schedule (ROS) basis from sign-on to sign-off. BEST suggests that one-half of the announcements should be in prime time and one-half in the remaining hours, allocated among the time periods set forth in station rate cards. In Reply Comments, Sonderling specifically opposes this suggestion.

27. Fetzer, McClatchy, Gill and Paducah cite the need for the eighth day announcement Rule to contain provisions for emergencies or preemption by special programming. WRVB–FM believes special consideration should be given to non-profit religious stations.

28. *Conclusions.* We consider it desirable to both scatter the announcements throughout the day and yet ensure a substantial per-

centage of the announcements are aired during the periods of maximum viewing or listening. Thus, as indicated in new Section 73.1202 of the Commission's Rules (included as Appendix C of this Report and Order), we have decided on the following time periods for airing the announcements:[3]

(a) for commercial television stations--the announcements shall alternate between the 6 P.M. to 11 P.M. time period (5 P.M. to 10 P.M. Central and Mountain Time) and the following two-hour time periods in the following rotating order: 7 A.M. to 9 A.M., 9 A.M. to 11 A.M., 11 A.M. to 1 P.M., 1 P.M. to 3 P.M., 3 P.M. to 5 P.M., 5 P.M. to 7 P.M., 10 P.M. to midnight.

(b) for commercial radio stations—the announcements shall alternate between the 7 A.M. to 9 A.M. and/or 4 P.M. to 6 P.M. time periods and the following two-hour time periods in the following rotating order: 5 A.M. to 7 A.M., 9 A.M. to 11 A.M., 11 A.M. to 1 P.M., 1 P.M. to 3 P.M., 5 P.M. to 7 P.M., 7 P.M. to 9 P.M., 9 P.M. to 11 P.M., 11 P.M. to 1 A.M. For stations which neither operate between 7 A.M. to 9 A.M. nor between 4 P.M. to 6 P.M., the announcements shall alternate between the first two hours of broadcast operation and every other two-hour time period during the broadcast day in rotating order beginning with sign-on.

29. We agree with those parties who cite the need for the announcement Rule to contain provision for emergencies and thus have included in Section 73.1202 a provision that if an emergency arises which precludes the airing of the announcement at the scheduled time, the announcement shall be aired on the day following the ending of such emergency at the identical time or during the time period which the rotating order specified in the Rule required. We do not believe, however, that any special consideration for non-profit religious stations is necessary or warranted.

Frequency of the Announcements

30. A number of parties think that every eighth day is too often to air the announcements, while several others feel the announcements should be aired more frequently than every eighth day. Recommended alternatives range from announcements four times a year (CBS would broadcast them weekly during a single month while Cohn & Marks would broadcast them every three months) to announcements every third day (proposed "at least at the outset" by BEST and specifically opposed by Sonderling in Reply Comments). Various parties recommend once a month or every 30 days. NBC suggests every 60 days, KUTV every two months and Corinthian twice a month. KRSN submits that a requirement of once a week to cover every day of the week would be easier to comply with than every eighth day, while Flower City recomends the announcements be required the 10th, 20th, and 30th days of each month. Storer proposes that only eight 30-second spots be aired each year, these during the two-week period following the filing of the Annual Report. Basic and Fetzer maintain the frequency of the announcements should be a matter of licensee discretion. Plough says the Commission could prescribe a minimum number of announcements each month with a requirement of a certain percentage

[3] At a future date each licensee will receive a copy of the appropriate schedule below in the form of a chart which could be placed in convenient studio location (i.e., a bulletin board in a control room) for easy reference.

in prime time, and then leave the rest of the scheduling to the individual station. NBC maintains that up to 25% of the announcements should be permitted to be by publication in a local newspaper in lieu of broadcasting announcements on that day or during that week.

31. *Conclusions.* After careful consideration of the options available and the comments received, we have decided to require the announcements every fifteenth day, rotated among the various time periods specified in paragraph 28. We believe this frequency of announcements will be sufficient to ensure that the announcements are heard by the vast majority of listeners and viewers, with enough redundancy to stimulate dialogue between audience and licensee.

Text of the Announcements

32. Various parties think the proposed sample announcements [4] are too lengthy, but there is considerable disagreement regarding just how long it takes to read them. The estimates range from 60 seconds to 120 seconds. Several alternative texts are submitted, most of which include changes discussed below.

33. STATIC and United Church recommend longer announcements which would emphasize particular aspects of a station's public interest obligations, including fairness, equal employment and solicitation of public service announcements. These longer announcements would be designed to educate the public rather than to merely ask for their comments and suggestions.

34. Some parties maintain the text of the announcements should be a matter of licensee discretion. BEST suggests that the Commission permit broadcasters to experiment and put their minds to producing interesting announcements. It contends that packaging spots or allowing community groups to present the announcements would prove more effective than repeating the identical announcements on all stations over a long period of time. Sonderling submits that the full, formal repetition proposed will make the audience mentally tune out but, in Reply Comments, opposes BEST's suggestion regarding experimentation. Plough maintains that the text is a bureaucrat's dream, but it won't sell.

35. BEST says the announcements should indicate the last renewal application is also available for public inspection. Dempsey & Koplovitz want the announcements to clarify the period covered by the last Annual Report. Gill, KRGV–TV and Nebraska feel the tone of the sample announcements suggests only criticism, and ask the Commission to make it clear in the announcement that compliments as well as criticisms and suggestions are welcomed.

36. A number of parties urge the deletion of the reference to "public property." Cohn & Marks does not think the phrase gives significant information. Lebanon and others maintain the phrase may be interpreted by some in a manner which would precipitate undesirable and

[4] Sample announcement incorporating the information required by the proposed eighth day announcement Rule were included in the Notice. Most parties who commented on the text of the announcements assumed that stations would air the sample announcements as written.

even violent actions. NAB, NBC, Dempsey & Koplovitz and KUTV believe the phrase raises complex legal questions regarding the ownership of the ether and implies broadcasters are common carriers. Other parties ask that the reference to sending complaints and suggestions directly to the Commission be deleted because it contradicts the Commission's aim of promoting local resolution of differences between a licensee and members of the local community.

37. Baldwin notes that viewers are not invited to discuss or comment on the list of problems and needs that television licensees will be required to submit in the Annual Report. He is among several parties to suggest that both radio and television announcements be geared to the community dialogue and ascertainment issues rather than to matters of programming preference. Sonderling and Dempsey & Koplovitz, for example, recommend that the requirement in (d) for radio and (e) for television in the proposed rule be amended to clarify that the "adequacy of performance" refers to performance in meeting responsibilities to ascertain problems and needs and to program to meet them. Baldwin suggests that licensees be encouraged to adjust programming based upon the feedback received from the announcements, otherwise they may be reluctant to deviate from promises made in the last renewal application because of fear of promise vs. performance criticism. Baldwin also recommends pre-testing of the announcements before the announcement Rule is finalized.

38. *Conclusions.* New Section 73.1202 and the sample announcements contained in the Rule (see Appendix C) have incorporated many of the changes suggested in the filings. The required announcement for television licenses now clarifies the time period covered by the annual listings of problems and needs. The announcements for both radio and television more clearly solicit favorable as well as unfavorable feedback by inviting "suggestions or comments" rather than "opinions, criticisms or suggestions." The invitation to send comments directly to the Commission has been deleted in order to further promote local resolution of complaints and differences. The phrases "adequacy of performance" and "public property" have also been deleted in order to eliminate possible confusion regarding their meaning.

39. We agree with Baldwin that licensees should carefully evaluate the feedback received from the announcements, and, whenever they deem it appropriate, consistent with their overall ascertainment efforts (see paragraph 24), should not refrain to implement any useful recommendation that may have been suggested by viewers or listeners solely because of a fear of "promise vs. performance" criticism. We do not, however, think Baldwin's suggestion of pre-testing the announcements is practical, given the problems of deciding which stations should have to air the announcements, for how long, and how and by whom their effectiveness is to be measured and evaluated.

40. With respect to the recommendation that the text of the announcements should be a matter of licensee discretion and that licensees should be allowed to experiment with the announcements, we point out and emphasize that the sample announcements included in the Rule are nothing more than sample announcements which incorporate the requirements of Section 73.1202. Should any or all licensees wish

to compose other wording and experiment with the method of presentation in order to help make the announcement "sell" or to convey additional information, they are encouraged to do so, as long as the requirements of Section 73.1202 are met.

Comments and Suggestion File

41. While various parties, including the NAB, specifically indicate they are not totally opposed to the concept of retaining a comments and suggestion file, other parties express total opposition. NBC, Basic and Fetzer maintain the Commission should give a more precise rationale before imposing such a requirement, especially since the letters would be retained as part of a public file which is not presently being used or examined. WRAG says it has never had a request to see its public file, while Corinthian cites a NAB survey of 1236 stations which found that during a given year a total of only 65 requests was received by all stations to see local public files.

42. CBS thinks it is the attention paid to letters and the station's responses that may contribute to a desired dialogue between citizen groups and licensees, not the mere retention of letters in a public file. NBC and CBS suggest the only conceivable purpose of the file would be to facilitate license challenges and petitions to deny by providing a discovery procedure to licensees' business files, and Plough contends that the file would give a challenger an undue advantage in a comparative hearing. NBC, CBS, and Plough are joined by Metromedia and Heart O'Wisconsin in expressing a fear that the file would deter stations from airing programs responsive to problems and needs. Because such programs often deal with controversial issues and attract far more correspondence than would something more bland, some broadcasters will decide upon bland programming to avoid a tremendous volume of letters in the station file. Plough predicts licensees will begin to solicit "orchid" letters to balance out any complaints received.

43. Some parties maintain the file may inhibit communications between licensee and public. CBS says the importance of anonymity for a free flow between licensee and public is recognized in the Primer, and fears that the supposedly private letters could be used for harassment of citizens. McClatchy feels that comments and complaints should remain matters solely between the licensee and the writer and it is not the public's role to second guess licensee judgment in the handling of such matters. Flower City expects people to be reluctant to write without assurances of confidentiality.

44. CBS and NBC argue that placing letters in the public file would constitute publication in violation of the authors' rights. CBS submits that under common law copyright the writer should have the exclusive right to permit copying of the letter, but under the proposed rule, anyone could copy the letter from the public file. NBC contends the average writer would not be aware that he must specifically request confidentiality to retain his author's rights and thus he would not ask for same. Plough, Basic, McClatchy and Fetzer point out that complaints sent to the Commission and resolved there are placed in a private file and are not available for public inspection.

45. The burden of maintaining the proposed comments and suggestion file is emphasized in a number of filings. Reference is made to the burden upon personnel, space, equipment (including duplicating facilities needed for duplicating letters while they are being circulated), and finances. CBS, for example, submits that WCBS–TV might receive 37,000 letters a year while Metromedia contends that any major market station could reasonably expect 60,000 letters a year. Storer maintains that if correctly done, an average of only 30–50 letters can be classified and summarized in a day. Lebanon is among several parties who feel the retention of the file would prove especially burdensome for small radio stations. WUAB cites the particular need for relief for UHF telecasters from administrative burdens.

46. A seven-year retention period for comments and suggestions is considered too long by various parties. ABC, WSAU–TV and KAKC think a two year retention period would be sufficient since complaints over two years old are dated, stale and essentially irrelevant. Plough recommends retention for only the past license period (a maximum of three years) while Corinthian recommends retention for one year or until the grant of the next renewal, whichever is longer. NBC maintains that even a one year retention period would prove much too burdensome.

47. NBC also suggests it is unclear just when the communication would have to be placed in the public inspection file and asks the Commission to clarify whether a copy of the letter has to go into the file immediately or only after reading, circulation and action has taken place. Basic, Fetzer, McClatchy and Plough fear that internal memoranda would have to be included in the public file in order to present a complete picture of issues raised in complaints or comments. The first three parties also are concerned that the proposed rule does not exclude business correspondence, as opposed to comments from the public, from being placed in the public file.

48. Comments regarding the requirement of breaking down the letters into subject categories were also received. Some parties suggest the requirement is unnecessary. NBC, for example, says that putting the letters into chronological order would facilitate public inspection and would be preferable to a complex system of categories which would be a rather unreasonable burden. Flower City suggests that filing by categories would be solely for the convenience of the public even though the purpose of the letters is to help the licensee to respond to community needs. BEST, however, supports categorization of the letters and submits that six categories may not be exhaustive and thus a seventh "miscellaneous" category should be added. BEST also thinks there should be a cross-referencing system to facilitate public inspection of the comments.

49. United Church, BEST and Baldwin oppose the Commission's proposal to exempt obscene and defamatory letters from being placed in the file. Baldwin says giving broadcasters the opportunity to exclude letters they feel should be excluded because of "the special nature of its content" would enable them to make self-serving deletions by

arbitrarily labeling derogatory letters obscene. United Church maintains there is little risk of social injury from the file since children are unlikely to review it, and since the file would have little appeal for those of prurient interests. Presumably there would be no great audience for defamatory matter and republication will not be privileged under libel laws.

50. Urban Law thinks licensees should be required to respond promptly and completely to all comments, should be required to propose meetings between interested correspondents and representatives of the licensee and should be required to maintain in the public file records of action taken in response to particular letters.

51. *Conclusion.* As will be discussed in Section IV of this Report and Order (paragraph 188) we have eliminated from new Section IV of Form 303 the proposed question regarding the comments and suggestions file. We have decided, however, after considerable discussion (focused primarily on the matter of retention of letters by radio licensees) to require radio and television licensees to retain in their public file written comments and suggestions received concerning operation of the station. (The requirement for radio will be on an experimental basis. At some appropriate time, probably about one year after the retention requirement has taken effect, we will ask our re-regulation task force to evaluate the usefulness of the requirement as it pertains to radio, and to recommend its continuation, modification or elimination.) Although this file would not normally be subjected to Commission scrutiny, it would be available to permit an interested member of the public to better determine the nature of community feedback being received by the licensee and to have a better indication of the extent to which his opinions regarding community problems and needs and/or the licensee's broadcast operation might be shared by other members of the community. We certainly share the contention of CBS that it is the attention paid to letters and the station's answers that may contribute to the desired dialogue rather than the mere retention of letters in a public file. But in order for members of the public and in certain instances, as for example, if a petition to deny is filed, for the Commission to have some better idea of the nature of the station's response to community feedback, the nature of the feedback must be available.

52. We do not think we should refrain from requiring stations to retain a file of comments received from listeners or viewers on the grounds that such a requirement would deter stations from airing programs to meet problems and needs because of the fear of controversy. There is no evidence to indicate that this would happen and we do not believe broadcasters would avoid their longstanding responsibilities of dealing with significant issues of public importance and with the problems and needs of the community merely because of the fear of receiving and being required to retain some critical letters.

53. The concern that the file may, in certain instances, inhibit communications between licensee and members of the public because of a citizen's possible desire for anonymity and fear of harassment was the

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reason for our including in Section 73.1202 a statement to the effect that the listener's or viewer's letter would not be made publicly available if the listener or viewer wished the communication to remain private. We do not think that placing letters in the public file constitutes violation of the author's rights, especially with the existence of an option available to the author of having his letter put in the public file or having it remain confidential.

54. The potential undue burden of retaining an indeterminate number of letters for seven years coupled with the fact that comments over three years old are usually at least somewhat dated, has led us to shorten the required retention period from seven years to three years. We have, however, retained a requirement that television licensees (who presumably will receive far more letters than radio licensees) file the letters into two subject categories: programming and non-programming. This should be more useful than mere chronological filing to anyone examining the television file, yet should not be as burdensome to the television licensee as would be the filing of letters into seven subject categories. A cross-reference system is not being required because we believe it is not essential and would place an unreasonable burden on the licensee.

55. We do not consider it necessary, at least until experience suggests otherwise, to specify exactly when letters must be placed in the public file, but we would expect letters would be placed in the file within a reasonable period of time from the date on which they were received. It was not our intention to require either internal memoranda or business correspondence to be placed in the file and Section 73.1202 has been clarified to provide that only written comments received from members of the public must be retained. We do not think that inclusion of internal communication in the file would ordinarily be necessary to present a complete picture of issues raised by listeners or viewers, but should licensees consider otherwise, they, of course, have the option of putting such materials in the file.

56. We have retained the exemption for obscene and defamatory letters and leave it to the good faith judgment of the licensee as to whether the letter is defamatory or obscene. If, however, a licensee is found to be making self-serving deletions by arbitrarily labeling derogatory letters obscene, we will deem the rule to have been violated.

57. With regard to Urban Law's recommendations that licensees be required to respond promptly and completely to all comments, to maintain in the public file records of actions taken in response to particular letters, and to propose meetings between interested correspondents and licensee representatives, we believe imposition of such requirements to be both inappropriate and unenforceable. But we again encourage licensees to carefully evaluate all feedback received from their audiences and to continually engage in dialogue with members of their communities concerning the problems and needs of the community and the kind of broadcast services which can help meet those problems and needs.

II. PROPOSED RULE MAKING TO AMEND SECTIONS 1.516(e)(1), 1.539(a), 1.580(i) AND 1.580(j) OF THE COMMISSION'S RULES RELATING TO THE TIME FOR FILING APPLICATIONS FOR RENEWAL OF BROADCAST STATION LICENSES, PETITIONS TO DENY SUCH APPLICATIONS, OPPOSITIONS TO SUCH PETITIONS AND REPLIES TO SUCH OPPOSITIONS

The Commission Proposal

58. In Section Two the Commission proposed (a) to change the deadline for filing applications for renewal of broadcast station licenses from 90 days prior to the expiration date of the license to four months before that date, (b) to not grant extensions of time in which to file petitions to deny renewal applications unless all parties concerned, including the renewal applicant, consent to such request or unless a compelling showing can be made of unusual circumstances warranting deviation from that policy, and (c) to lengthen the time for filing opposition to deny to 30 days after the petition to deny is filed and for filing replies to oppositions to 20 days after the opposition is filed. The Commission stated that the earlier filing of the renewal application and the retention of a cut off date for filing petitions to deny of the first day of the last full calendar month of the expiring license [5] will provide community groups interested in the performance of local stations with ample time to examine renewal applications, to discuss problems with licensees, and, if desired, to file timely petitions to deny. This will eliminate the necessity for seeking last minute extensions of time which are disruptive of the Commission's processes and make it possible for the Commission to adopt a policy of not granting requests for extensions based on a claim of negotiations with the station unless all parties concerned consent to such requests. The Commission stated that this course, coupled with the notices of filing of renewal applications proposed in Part Three of the Notice, appears to represent a reasonable balance between necessary safeguards for the expression of the public interest by community groups and the need for orderly application processing. The amendment of Section 1.580(j) of the Rules to give more adequate time for the presentation of oppositions to petitions to deny and replies to oppositions had been urged on various occasions by licensees and citizen groups. The Commission indicated that such amendments seemed warranted, but in the interest of avoiding unnecessary delay in renewal processing, the expanded time for filing replies to oppositions will commence from the date of the filing of the opposition rather than (as provided in the present Rules) from the date on which oppositions are due.

The Change of Filing Dates

59. Fetzer and McClatchy maintain that a four-month filing period is too long, that under the new plan stations could be judged on the basis of obsolete information and would be faced with the necessity of frequent and perhaps costly amendments to the application, and that

[5] In the case of late filed applications, the cut off date would be the 90th day after the Commission gives public notice of acceptance of the filing of the application.

the additional thirty days given for examination of the renewal application would not affect the practice of citizen groups waiting until the last minute to begin negotiations with stations. They recommend that the Commission require renewal notices to begin two or three months before the renewal expiration date (rather than five months before, as proposed) and retain the present filing date. KRGV–TV feels three months is adequate time for someone conscientious to file a petition to deny and that the extra month will simply invite "malcontents" to comment against stations and against society in general.

60. Corinthian and Flower City believe that the new filing dates should be accompanied by an earlier announcement of the composite week. This will give February 1 licensees sufficient time to complete their application by their new October 1st filing deadline. Flower City suggests an announcement in June or July. Corinthian mentions no specific date but contends that even with the present filing deadlines, the Commission should announce the composite week at an earlier date. United Church states that merely lengthening the period for examining renewal applications is not enough. The proposal would, however, be workable if the Commission adopted the rulemaking requested by the National Citizens Committee (RM–1475) to make certain program records available, including some logs. Groups would then be able to compile data well in advance of filing dates and negotiate knowledgeably and concretely. If a petition to deny were then filed, it would be supported by detailed facts as the Commission has ruled is necessary (*Black Identity Education Association*, 21 RR2d 746). United Church contends that groups are unable to provide such facts or negotiate effectively without increased data regarding station performance.

61. United Church also asks the Commission to require licensees to furnish copies of specified parts of public records within 24 hours, at a cost not to exceed 5 to 10 cents per page. Past problems with obtaining copies of renewal applications are outlined with United Church maintaining it takes a minimum of two to three weeks to get a copy of a renewal application from Washington. BEST supports a requirement for duplicating materials at cost, suggesting that the requirement be limited only to those stations which have duplicating facilities on the premises. Sonderling in Reply Comments opposes such a requirement.

62. Opposition to the Commission's intention not to grant extensions for filing petitions to deny unless all parties, including the renewal applicant, consent or unless a compelling showing can be made of unusual circumstances justifying the extension is raised by BEST, United Church, Urban Law and NAEB. BEST argues that the Act is concerned with the public interest, not with the licensee's rights to a prompt renewal or the Commission's orderly processes; that no concrete showing has been made of a disruption of the Commission's practices by granting extensions; that in the vast majority of cases where extensions have been granted, the result has been to avoid petitions and litigation and to reach amicable accords that usually contain provisions to assure continuing dialogue in the future; that requiring community groups to obtain consent is an unlawful discrimination

against groups since no other type of petitioner is required to obtain such a consent as a matter of law; and that the Commission is illegally delegating de facto authority to licensees to make a determination as to regulatory matters which the Act says are the Commission's responsibilities, and is thus putting the licensee in a conflict of interest position. Urban Law contends that the inconvenience caused to the licensees by processing delays are far from sufficient to justify a procedure which would endanger the rights of communities to be heard.

63. In its Reply Comments NAEB supports the contention of BEST and Urban Law that the Commission should not permit the licensee or any other party to "the suit" to determine whether a request for an extension should be treated favorably by the Commission. NAEB contends that the Commission should decide upon extension requests on the basis of the facts of specific cases, not by a flat proscription. Thus a preferable procedure would be to merely establish a cut off date and make ad hoc judgments regarding whether good cause is shown for an extension. The Commission might wish to set forth the particular standards that it proposes to apply in rendering its ad hoc decision, so that all parties would be alerted to criteria that must be satisfied.

64. United Church recommends a blanket rule or policy of automatically granting a thirty-day extension whenever written statements or affidavits are filed before the cut off date notifying the Commission of an intention to file a petition to deny. This would provide a thirty-day "cooling off period" similar to that in labor-management disputes and would permit negotiations to take place right up to the cut off date, thus increasing the chances of mutual understanding and settlement. United Church claims that its experience disproves the Commission's contention that if parties are engaged in good faith negotiations, licensees will consent to extensions. BEST in Reply Comments says the United Church proposal is preferable to the Commission proposal. Sonderling in its Reply Comments suggests the Commission retain its current 60-day filing deadline and adopt the United Church proposal of an automatic 30-day extension upon the submission of a verified notice of intention to file a petition to deny from a "party of interest" who is engaged in good faith negotiations with the licensee.

65. Several parties spoke to the question of the cut off point. NBC suggests the cut off be 45 days prior to expiration rather than 30 days because the new 30-day period for oppositions and 20 days for replies will mean that, allowing for mailing time, the period for pleading will terminate almost one month after date of expiration. Metromedia notes the same problem and says the Commission should consider the advisability of changing the cut off date so that if a petition to deny is filed, all pleadings will have been filed by the license expiration date. Gill, Storer and Cohn & Marks recommend the Commission amend Section 1.587 to provide that the cut off date for formal petitions be applied to informal petitions, absent good cause. Cohn & Marks suggest there is even more reason to apply a cut off date for informal comments which require no expertise and can be readily prepared and timely mailed. Storer and Gill also recommend a rule change to make it unnecessary for the Commission to consider late filed petitions as informal objections.

66. No comments oppose the lengthening of the period for filing oppositions to petitions to deny from 10 days to 30 days. With regard to lengthening the time for filing replies to 20 days, however, Dempsey & Koplowitz suggests that 10 days, or at most 15 days would be sufficient time for filing replies, while BEST submits that the Commission might wish to permit 30 days, especially if it is going to become more strict in its application of the cut off date for filing petitions and if it is going to require the consent of the opposing party before granting extensions to file oppositions and replies. KAKC, GE, WSAU–TV, ABC, Urban Law and BEST indicate that extensions for filing oppositions and replies should be granted for good cause.

67. BEST and Urban Law argue that replies should be due 20 days from the date on which oppositions are due, not 20 days from the date on which the opposition is filed. BEST contends that otherwise the licensee would have undue control of the timing, as for example, by filing during holiday periods or holy days. Urban says such a change would cause little inconvenience to the broadcaster, and little time would be lost since few oppositions would be filed much before the deadline date.

68. Plough suggests that the Commission rules should provide for something analogous to a motion to dismiss for failure to state a claim. After examining the renewal application and the petition to deny the Commission could either grant the motion or dismiss it. Only after the petition were dismissed would the full pleading cycle (including replies and oppositions) need to be followed.

69. *Conclusions.* We believe it desirable to implement the proposed change of filing dates for renewal applications from 90 days prior to the expiration date to four months before that date. As stated in the Notice this will provide community groups interested in the performance of local stations with ample time to examine renewal applications, to discuss any problems with licensees, and, if desired, to file timely petitions to deny. After careful re-examination of the appropriate renewal forms, we do not think the filing of renewal applications thirty days earlier than at present will result in stations being evaluated on the basis of obsolete information. The dates by which the composite week will be announced each year and on which the Annual Programming Report in Appendix D will be due from commercial television licensees (See Section IV of this Report and Order) will be announced at a future date.

70. The National Citizen Committee's petition for rulemaking (referred to by United Church) to make certain program records, including program logs, available to the public is the subject of a Notice of Proposed Rule Making issued January 8, 1973 (Docket 19667). The Notice refers to the possibility of obtaining from a convenient local depository, such as the local public library, copies of program logs and related station documents. While no decision has been reached regarding the making of all program logs publicly available, we have determined that the logs for the annual composite week for commercial television licensees which will be used in the compilation of statistics for the Annual Programming Report should be placed in the public file with the Annual Programming Report. (See Appendix B.) Licen-

sees will, however, only send to Washington logs for one composite week each renewal period. These logs will be sent at renewal time with Section IV–B of Form 303 and will be for the most recent composite week.

71. With respect to the objections of several parties regarding our intention not to grant extensions for filing petitions to deny unless all parties, including the renewal applicant, consent or unless a compelling showing can be made of unusual circumstances, we think it appropriate to restate our thinking regarding extensions for filing petitions to deny which was outlined in the Notice.

72. It seems to us reasonable to assume that regardless of when we fix the deadlines for filing renewal applications and for filing petitions to deny, we will probably continue to receive requests from citizen groups for extensions of time to file petitions to deny. Presumably these requests will continue to be based either on the grounds that negotiation is taking place and agreement will soon be reached which will eliminate the need for filing a petition, or that unusual circumstances have arisen which make it impossible for an interested party to timely file. Given these realities we have decided that the most reasonable and proper course for us to pursue is to do the following: (1) To encourage continuous dialogue between community and licensee throughout the license period through the new announcements required by new Section 73.1202. (2) In the case of television, to provide the public with increased information regarding station programming and each licensee's conception of problems and needs by requiring annual reporting of composite week programming and the annual listing of problems and needs. (These requirements were proposed in Part IV of the Notice and are discussed in Section IV, paragraphs 99–155 of this Report and Order.) (3) To require licensees to file their renewal applications four months prior to the expiration of their licenses and three months prior to the cut off date for filing petitions to deny. This will ensure adequate time for any interested party to (a) examine a renewal application, (b) discuss any problems with licensees and determine if negotiation is desirable and possible, and (c) decide to file a timely petition to deny, to not file a petition, or to come with the licensee to the Commission and request an extension of time to continue negotiations. (4) To remind interested parties of the pending renewal and the filing of the renewal application through the pre-filing and post-filing renewal announcements discussed in Part III of the Notice and this Report and Order. (5) To continue to consider on an individual ad hoc basis requests for extensions of time to file a petition to deny on the grounds of compelling unusual circumstances preventing timely filing, but to make it clear that the circumstances must, in fact, be compelling and unusual before the extension is granted. (6) To grant extensions of time for filing petitions to deny on the grounds that negotiations are taking place and settlement is near only when both licensee and potential petitioner both affirm that, in fact, negotiation is taking place and settlement is near. If one party claims that negotiations have broken down or never have begun and thus settlement is unlikely, we do not see how we can grant an extension based on entirely the opposite premise since negotiation and suc-

cessful settlement requires the constructive participation of both licensee and potential petitioner.

73. We do not consider requiring agreement of all parties that negotiation is in fact taking place and therefore an extension of time for filing a petition to deny is warranted to be discriminatory against citizen groups any more than it is discriminatory against licensees. Nor do we believe requiring such agreement means we have delegated to the parties our authority to grant extensions. As we have indicated in paragraph 72, we think it makes little sense to grant extensions on the grounds that negotiations are taking place and settlement is near, without agreement and acknowledgement from both parties that this is in fact true.

74. As to NAEB's suggestion that we merely establish a cut off date and make ad hoc judgments regarding whether good cause is shown for an extension, we repeat that this is what we will continue to do with requests for extensions based on unusual compelling circumstances. But, we will no longer continue to make ad hoc judgments that extensions are warranted because negotiation is taking place and settlement is near without affirmation and agreement from all concerned parties that this is in fact true.

75. United Church suggests a thirty-day "cooling off" period in addition to the proposed earlier filing date for renewal applications, thus giving citizen groups four months from the filing of the renewal application to file a petition to deny instead of two months as at present. We believe that the proposed three month period is long enough for community groups to examine the renewal application; to discuss problems with licensees and to determine if negotiations are desirable and possible; and to decide to file a timely petition to deny, to not file any petition or to come with the licensee to the Commission and request an extension of time in which to negotiate. Thus we will not adopt the United Church suggestion. Nor will we adopt Sonderling's counter-suggestion of a thirty-day "cooling off" period without an earlier filing date for renewal applications. This would mean continuation of the present situation whereby groups will have only sixty days between filing date and the deadline for filing petitions, and less than that for deciding whether negotiations which may have been undertaken are going to be successful and whether drafting a petition is necessary. Experience has demonstrated that the present situation is not satisfactory and changes are needed.

76. To move up the cut off date, as NBC suggests, from thirty days before expiration to forty-five days before expiration would negate the full effectiveness of moving up the date for filing renewal applications. Under the NBC proposal, groups would have only seventy-five days instead of ninety days between renewal filing and the cut off date. Thus we will not adopt the NBC recommendation and will retain the cut off date of the first day of the last full calendar month prior to expiration. We will also not apply a cut off date for informal comments because we want to be able to hear from the public at any time and because the filing of informal comments has not proven to be any problem.

77. With respect to lengthening the periods for oppositions to petitions to deny and replies to oppositions, we consider the proposals of thirty days for oppositions and twenty days for replies to be reasonable. But in the interests of consistency with other Commission filing requirements, Section 1.580(j) will provide that replies will be due twenty days from the date on which the opposition is due or from the date on which it is filed, whichever is longer. The change from our proposal should be of little consequence since few oppositions are filed much before the filing date.

78. Finally, we will not adopt Plough's suggestion of something analogous to a motion to dismiss for failure to state a claim since little time would be saved by the process if the motion were upheld and time would actually be lost if the motion were not upheld, and since we would normally be reluctant to make a finding regarding a petition to deny without benefit of replies and oppositions.

Dates on which new Filing Dates Should Take Effect

79. The Commission invited comments as to which should be the first group of renewal applications to which the new filing deadlines should apply. Basic, McClatchy and Fetzer suggest that if the announcements provided in Part One of the Notice are not adopted, six months notice would be adequate, but if they are adopted, one year notice should be given to permit testing the effectiveness of the announcements which are the premise for the rules under discussion. Corinthian says the Commission should provide at least six months notice, while BEST merely indicates that the Commission should make it clear that application of the rule would be prospective and would not affect extension requests already pending at time of adoption. Urban Law says the Commission should not apply the rule to applications now before it or applications being challenged on appeal, otherwise the entire backlog of pending applications would be delayed and substantial revisions of petitions to deny would be necessary.

80. *Conclusions.* The new filing dates will apply first to renewal applicants whose licenses expire on December 1, 1974, and to all renewal applicants thereafter.

III. PROPOSED RULE MAKING TO AMEND SECTION 1.580(c), (d) AND (m) AS TO NOTICES OF THE FILING OF RENEWAL APPLICATIONS

The Commission Proposal

81. In Section Three of the Notice the Commission proposed to amend Section 1.580(c), (d), and (m) of the Commission's Rules to provide the following:

During the period beginning on the first day of the sixth full calendar month prior to the expiration of a broadcast station license to the date on which the renewal application is filed, all applicants for the renewal of station licenses shall broadcast the following announcement every eighth day.

The frequency/channel on which this station operates is public property. On (date of last renewal grant) we were granted a three year license by the Federal Communications Commission to operate this frequency/channel in the public interest, convenience and necessity.

Pursuant to the provisions of the Communications Act of 1934, as amended, notice is hereby given that the broadcast license of Station (*call letters, city, and state*) will expire on (*date of expiration*) and that we are required to file

with the Federal Communications Commission, no later than (*a date 120 days prior to the expiration date*), an application for license renewal.

A copy of this application will, upon filing with the Commission, be available for public inspection at our business office (*address*) during our regular business hours of —— A.M. to —— P.M. Monday through Friday. The renewal application will include reports by this station regarding its performance during the last three years, analysis of complaints and suggestions we have received from the public during the past three years, and projections of our programming during the next three years.

Members of the public who desire to bring to the attention of the Federal Communications Commission facts concerning whether this station has operated in the public interest and/or facts relating to our renewal application will have until (*date thirty days before expiration*) to file formal comments and petitions. The Commission welcomes informal comments at any time.

Further information regarding the Commission's process of renewing broadcast licenses and deadlines for relevant filings by both broadcasters and the public is available at our business office (*address*) or may be obtained from the Federal Communication Commission, Washington, D.C. 20554.

During the period beginning on the date in which the renewal application is filed to the first day of the last full calendar month prior to the expiration of the license, all applicants for the renewal of station licenses shall broadcast the following announcement every eighth day:

The frequency/channel on which this station operates is public property. On (*date of last renewal grant*) we were granted a three year license by the Federal Communications Commission to operate this frequency/channel in the public interest, convenience and necessity.

Pursuant to the provisions of the Communications Act of 1934, as amended, notice is hereby given that the broadcast license of Station (*call letter, city and state*) will expire on (*date of expiration*) and that we have filed with the Federal Communications Commission an application for license renewal.

A copy of this application is available for public inspection at our business office (*address*) during our regular business hours of —— A.M. to —— P.M. Monday through Friday. The renewal application includes reports by this station regarding its performance during the last three years, analysis of compaints and suggestions we have received from the public during the past three years, and projections of our programming during the next three years.

Members of the public who desire to bring to the attention of the Federal Communications Commission facts concerning whether this station has operated in the public interest and/or facts relating to our renewal application have until (*date thirty days before expiration*) to file formal comments and petitions. The Commission welcomes informal comments at any time.

Further information regarding the Commission's process of renewing broadcast licenses and deadlines for relevant filings by both broadcasters and the public is available at our business office (*address*) or may be obtained from the Federal Communications Commission, Washington, D.C. 20554.

Both announcements shall be made during the following time periods:

(a) For commercial television stations, between 8:00 p.m. and 10:00 p.m.

(b) For commercial radio stations, between 7:00 a.m. and 9:00 a.m., but if such stations do not operate during these hours, then between 4:00 p.m. and 7:00 p.m.

(c) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.

In the case of television broadcast stations and noncommercial educational television stations, such notices will be broadcast orally with camera focused on the announcer; at the end of the notice, a signboard with the licensee's address and the Commission's Washington address will be shown.

During the period beginning on the first day of the sixth full calendar month prior to the expiration of the license up to the first day of the last full calendar month prior to renewal, the public notice requirements proposed in Section I of this docket shall be waived.

82. The Commission noted that under the proposed amendments, the renewal applicant would no longer be required to publish in a newspaper a notice of his renewal filing. At the time of filing his renewal application, the licensee would, however, be required to submit a statement setting forth the date and times at which the proposed pre-filing notice had been broadcast and the proposed post-filing notice would be broadcast.

The Commission indicated that the statement in the proposed announcements that further information concerning the Commission's renewal processes is available at the station reflected its intention to publish a booklet explaining renewal procedures and to require licensees to have a legible copy of the booklet available for public inspection. The Commission said it assumed that the booklet would be ready for distribution by the time the rulemaking in the Notice was completed and that it would, without another notice of proposed rulemaking, amend Section 1.526 of its Rules to require that one copy of the booklet be readily available to the public at any time during the station's regular business hours.

Scheduling of the Renewal Announcements

83. WGBF, Basic, McClatchy and Fetzer oppose beginning the renewal announcements five months prior to filing. All maintain that the announcements should begin no earlier than three months prior to filing.

84. Several parties commented on the proposed time of day of the announcements. 8 P.M.–10 P.M. for television stations and 7 A.M.–9 A.M. for radio stations. KAKC, WSAU–TV and GE recommend that the Commission retain the time periods used for the existing broadcast notices of the filing of renewal applications, 7–10 A.M. for radio and 7–10 P.M. for television. Westinghouse proposes 6 P.M.–11 P.M. for television and 6 A.M.–10 A.M. for radio, while North Carolina supports 6 P.M.–11 P.M. and 7 A.M.–10 A.M.

85. Four parties suggest that not all announcements be made during the same time period. NBC recommends that at least 50% of the television announcements be made between 6 P.M.–11 P.M. and at least 50% of the radio announcements be made between 7 A.M.–10 A.M. and/or 3 P.M.–7 P.M. in any combination, and the remainder of the radio and television announcements any time between 8 A.M.–1 A.M. BEST thinks half of the announcements should be in "prime time" and the other half at other times as determined by reference to the time periods on the station's rate card. Corinthian speaks in terms of half the television announcements being made between 6 P.M.–11 P.M. and the rest at other hours. CBS says that only some of the announcements should be aired between 6 P.M.–11 P.M.

86. NAB, NBC, Dempsey & Koplovitz, Corinthian, KAKC, WSAU–TV and GE maintain that every eighth day is too often. All recommend similar alternatives of twice a month, every two weeks or every 15 days. Dempsey & Koplovitz notes that there has been no claim of insufficiency of the present number of announcements and emphasizes that announcements every 15 days over 5 months far exceeds existing requirements of four on air announcements and four newspaper

announcements. NAB also contends that no justification has been given for the increase in broadcast renewal notices and contends that whether nineteen or twenty announcements would be better than four or forty-six announcements is a subjective determination. The fact is that irrespective of the number of announcements, only a portion of the audience will hear them, and Congress in enacting section 311(a) of the Act never intended to ensure that all members of the listening and viewing public would receive actual notice of renewal filings. BEST and Urban Law, on the other hand, argue that announcements should be aired more frequently than every eighth day. BEST maintains that at the "outset" the requirement be every three days. Urban states that they "deplore the infrequency," but give no alternative recommendation.

87. *Conclusions.* After careful consideration of the options available and the comments received, we have decided to require that the notices of filing of renewal applications be aired at the same intervals as the notices required by new Section 73.1202—that is, every fifteenth day. In order to scatter the announcements throughout the day, yet ensure that a substantial percentage of the announcements are aired during the periods of maximum viewing or listening, the notices of filing renewal applications will be aired at the following time periods (the text of amended Section 1.580 (c), (d) and (m), is in Appendix B. of this Report and Order):

Pre-filing announcements

(a) For commercial television stations—at least two of the announcements between 6 P.M. and 11 P.M. (5 P.M.–10 P.M. Central and Mountain Time).

(b) For commercial radio stations—at least two of the announcements between 7 A.M. and 9 A.M. and/or 4 P.M. and 6 P.M. For stations which neither operate between 7 A.M. and 9 A.M. nor between 4 P.M. and 6 P.M., at least two of the announcements shall be aired during the first two hours of broadcast operation.

(c) For noncommercial educational stations—at the same time as commercial stations, except that such stations need not broadcast the announcement during any month which the station does not operate.

Post-filing announcements

(a) For commercial television stations—at least three of the announcements between 6 P.M. and 11 P.M. (5 P.M.–10 P.M. Central and Mountain Time), at least one announcement between 9 A.M. and 1 P.M., at least one announcement between 1 P.M. and 5 P.M. and at least one announcement between 5 P.M. and 7 P.M.

(b) For commercial radio stations—at least three announcements between 7 A.M. and 9 A.M. and/or 4 P.M. and 6 P.M., at least one announcement between 9 A.M. and 12 P.M., at least one announcement between 12 P.M. and 4 P.M., and at least one announcement between 7 P.M. and midnight. For stations which neither operate between 7 A.M. and 9 A.M. nor between 4 P.M. and 6 P.M., at least three of the announcements shall be made during the first two hours of broadcast operation.

(c) For noncommercial educational stations—at the same time as commercial stations except that such stations need not broadcast the announcement during any month during which the station does not operate.

Elimination of the newspaper publication requirement

88. No objections were raised regarding this proposal and, in fact, a number of parties specifically endorsed the change. NBC does, however, suggest that the licensee be *permitted* to have up to 25% of his required announcements in a local newspaper in lieu of being broadcast.

89. *Conclusions.* The newspaper publication requirement will be eliminated because we believe, as apparently do a number of parties filing comments in this proceeding, that announcements regarding broadcast matters should be broadcast. For this reason we will not permit stations to have a certain percentage of their required renewal announcements placed in a local newspaper in lieu of being broadcast.

The text of the renewal announcements

90. Some parties maintain the proposed announcements are too long, although there is some disagreement regarding how long it takes to read them. One filing, for example, estimated 90 seconds, while another estimated 120 seconds. CBS recommends that both the eighth day announcement and the renewal announcement be one minute. NBC and Corinthian suggest that the first paragraph of the proposed announcement (including the reference to a three year license and the date of last renewal) be dropped. Dempsey & Koplovitz supports the elimination of the last paragraph and the sentence in the fourth paragraph which describes the inclusion of reports that accompany the renewal applications. Flower City thinks the material in the first three paragraphs can be condensed and Baldwin feels the announcements contain too many complex and lengthy sentences. Several parties submitted shorter alternative texts, but BEST and Urban Law suggest that broadcasters be allowed to experiment with the text of the announcements.

91. In addition to the objections to the phrase "public property" which were reviewed in the discussion regarding the text of the notices required by new Section 73.1202 (see paragraph 36), objections to other phrases or statements in the renewal announcements were received. Sonderling contends the reference to the right of the public to file formal comments and petitions should be deleted and the phrase in the present renewal announcement advising the public of their right to file letters setting forth "specific facts concerning the operation of the station" should be retained. Cohn and Marks and Gill recommend deletion of the statement "The Commission welcomes informal comments at any time." Cohn & Marks argues that the statement practically guarantees future litigation regarding the meaning of the notice and the question of whether late filed comments require consideration. The statement should be revised to say that the cut off date applies to all comments, informal as well as formal. This would be consistent with the Commission's desire to encourage timely submission with minimum disruption of the Commission's processes which

might result from last minute informal comments. Gill submits that the phrase is made unnecessary by the announcements required by Section 73.1202 which invite the public to write the Commission during the license period. Gill also notes that the proposed text of the announcements refers to the cut off date as the "date thirty days before expiration." This is inconsistent with Sections 1.539(a) and 1.516(l) of the Commission's Rule which refer to the first day of the last full month prior to the month of expiration. Gill suggests that the text of the announcements be revised accordingly.

92. Urban Law points out that although Part III of the Notice states that announcements required by Section 73.1202 would be waived during a period ending on the first day of the last full calendar month "prior to renewal," Part I of the Notice states that the announcements would be waived during a period ending on the first day of the last full calendar month "prior to expiration" (during which time the renewal announcements would be aired). Urban Law emphasizes that the period between the date of expiration and the date of renewal may be of considerable duration and urges the Commission to revise the wording of the renewal announcement rule to read "prior to expiration." Westinghouse suggests that the renewal announcement Rule eliminate the requirement that the television notice be read by an on-air announcer. Westinghouse contends that a visual signboard is equally effective and stations should be given their choice of methods.

93. Several parties suggest additions to the text of the renewal announcements. Cohn and Marks recommends that the public be encouraged to first submit comments to the station and then, if satisfaction is not obtained, comments and petitions could be sent to the Commission. Urban Law submits that announcements should incorporate information regarding the public's right to have its needs and problems heard and met just as the eighth day announcements do. BEST says the announcements should inform the public that special appointments may be made for members of the public to view the station's public file.

94. *Conclusions.* As indicated in Appendix B we have incorporated some of the changes in the text of the renewal announcements that were recommended in the filings. The text has been shortened and its language simplified. Moreover, the existing requirement that the television notices be read by an on-air announcer has been eliminated.

95. We have substituted a reference to "public trustee" for "public property" as we did in new Section 73.1202, and in the interests of avoiding possible confusion in the minds of the listener or viewer we have deleted the statement "The Commission welcomes informal comments at any time." But as has been indicated in paragraph 76 and for the reasons stated therein, we do not accept the recommendation of Cohn & Marks to apply a cut off date for the filing of informal comments. Inconsistencies cited by Gill regarding the cut off date and by Urban Law regarding the period during which the announcements required under new Section 73.1202 would be waived, have been corrected.

96. The renewal notices, unlike the announcements required by new Section 73.1202, are intended to inform the public of the station's upcoming or recent renewal filing and to apprise the public of the ap-

propriate time for filing comments with the Commission regarding the renewal application. Thus we have not adopted the suggestion of Cohn and Marks that the public be encouraged to submit comments to the station before sending them to the Commission. Regarding BEST's suggestion that the announcements should inform the public that special appointments may be made to view the station's public file, we do not think it reasonable to require all licensees to provide for special appointments as long as the public file is available during the week as is now required. We would, however, encourage licensees who are asked to arrange such appointments to do so whenever possible.

Certification

97. Basic, McClatchy and Fetzer recommend that licensees be permitted to continue to submit certification after the post-filing notices. These parties say no purpose would be served by altering the existing post-broadcast requirements, and procedures would be optimally simple if the present system were retained.

98. *Conclusions.* Licensees will be required to submit a statement with their renewal application that the required pre-filing announcements have been aired and the required post-filing announcement will be aired.

IV. INQUIRY AND PROPOSED RULE MAKING TO AMEND SECTION IV–B OF FORM 303 APPLICATION FOR RENEWAL OF TELEVISION STATION LICENSE AND ADOPTION OF ANNUAL REPORTING FORM FOR TELEVISION STATION LICENSEES

The Commission Proposal

99. In this Section of the Notice the Commission proposed an Annual Reporting Form for commercial television licensees and a revised Section IV–B of Form 303 for commercial television renewal applications. In introducing the revised Section IV–B the Commission noted that while some questions in the present form had been eliminated, questions which solicit specific quantitative information had been retained and refined. Licensees would, for example, be required to enumerate composite week programming of "News," "Public Affairs" and "Other" during the 6 P.M.–11 P.M. time period. In addition, new questions were added; other existing questions revised, and licensees would be asked to indicate which, if any, network public affairs programs were offered to them but were not carried and, if not carried, what programs were aired instead.

100. In proposing the Annual Reporting Form the Commission suggested that a more appropriate method than Part I of Section IV–B for commercial television stations to report on ascertainment might be for them to submit an annual listing of what the licensee considers to have been the most significant problems and needs in his service area during the preceding twelve months, and a listing of the programs televised during that period designed to help meet those problems and needs. The new television announcements proposed in Part I of the Notice would refer to the annual listings and would invite viewers to examine the lists and make comments and suggestions to the licensee. This would encourage continuous dialogue be-

tween the licensee and members of the public concerning what both consider to be the major problems and needs of the community.

101. In addition to annually listing significant problems and needs and programs aired which were designed to help meet those problems and needs, television licensees would be required to annually submit statistics regarding program performance in specified program categories during the composite week announced by the Commission each July or early August. This information would be included on the Annual Reporting Form which would be submitted to the Commission each year before September 1st. The Commission stated that the purposes of the annual filings of statistics would be: First, to provide the Commission with yearly statistics regarding nationwide television programming on commercial stations during a given composite week—statistics which are not now available to the Commission but which would be valuable in shaping any new policies in this area and in making the Commission, Congress and any other interested parties better informed; Second, to enable the Commission to make a more complete evaluation of programming performance of the licensee during the past renewal period; and Third, to enable the Commission, in a comparative hearing involving a renewal applicant (where upgrading during the last year of the renewal period would not be to minimal service—see 22 FCC 2d 2040), to more readily ascertain if programming during the first two years of the license period differed significantly from programming during the third year.

102. The Commission had also indicated in the Introduction to the Notice that it intended to use the statistics derived from the Annual Reporting Form in compiling a nationwide data base. When this data base became available each television station would be placed within a yet to be determined grouping of stations (grouping to be by market, revenues, or by a combination of factors) and then annually ranked within that grouping in several critical categories, including percentage of total programming devoted to "News," "Public Affairs" and "Other" and percentage of total programming devoted to local "News," "Public Affairs" and "Other." The staff would then be instructed to closely scrutinize the renewal applications of all those stations whose ranking within their respective grouping falls below a specified level (as, for example, the bottom 10th percentile) and make a summary report of those renewal applications.

103. The Commission emphasized that initiation of annual reporting would not constitute the initiation of an annual renewal process, and that barring exceptional circumstances, evaluation of the station's performance by the Commission would still take place only once every three years.

104. The definition used for "News," "Public Affairs," "Other programs" and "Local programs," in both the Annual Reporting Form and the revised Section IV–B of Form 303 would remain the same as those now in use. These definitions read:

> (a) "News programs" (N) include reports dealing with current local, national, and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis and sports news.

(b) "Public Affairs programs" (PA) include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national, and international public affairs.

(c) "Other programs" (O) include all other programs excluding entertainment and sports.

(d) A "Local program" (L) is any program originated or produced by the station, or for the production of which the station is substantially responsible, and employing live talent more than 50% of the time. Such a program, taped, recorded, or filmed for later broadcast shall be classified by the station as local. A local program fed to a network shall be classified by the originating station as local. All non-network news programs may be classified as local. Programs primarily featuring syndicated or feature films, or other non-locally recorded programs shall be classified as "Recorded" (REC) even though a station personality appears in connection with such material. However, identifiable units of such programs which are live and separately logged as such may be classified as local (e.g., if during the course of a feature film program a non-network 2-minute news report is given and logged as a news program, the report may be classified as local).

105. The Commission invited comments on the above definitions in light of its proposal and specifically raised the issue of whether the news and public affairs categories should be viewed together as a single category.

106. The Annual Reporting Form and revised Section IV–B of Form 303 proposed in the Notice follows:

ANNUAL PROGRAMMING REPORTING FORM

1. Using the form below list what you consider to be the most significant problems and needs of your service area during the past twelve months. (DO NOT LIST MORE THAN 10). Indicate (1) the number of programs or program segments excluding ordinary news inserts. (By news inserts, we refer to the daily or ordinary news coverage of breaking newsworthy events; an insert in a newscast that is not merely coverage of breaking events but rather seeks to deal in more depth or analysis with some problem should be counted); (2) the amount (hours and minutes) of program time; and (3) the amount (hours and minutes) of local programming devoted during the past twelve months to each of these problems or needs.

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1. List what you consider the most significant problems or needs of your service area during the 12 months ended July 30. Do not list more than 10. Complete columns 2, 3 and 4 for each item listed.

	PROBLEM OR NEED (Do not list more than 10) (1)	Programs Devoted to This Problem or Need Broadcast During the 12 Months Ended July 30.1/ No. of Programs or Program Segments 2/ (2)	Total Program Time (In Hrs. & Min) (3)	Local Program Time Included In Col. 3 (In Hrs. & Min) (4)	Leave Blank
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

1/ If the report does not cover the full 12 month period, indicate period covered: _____, 19__ to _____, 19__.

2/ Do not count ordinary news inserts.

2. As Exhibit No. — give for each problem or concern listed in Form I a brief description of each program or program segment aired by the applicant during the past twelve months that addressed itself to that problem or need. Identify each program by source and indicate the time of broadcast.

3. State the total hours of operation during the composite week: _____.

4. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted in the composite week to the categories (see Definitions) listed. Commercial matter within a program segment should be excluded in computing time devoted to that particular program segment (e.g., a 15-minute news program containing 3 minutes of commercial matter shall be counted as a 12-minute news program).

Composite Week Data (1)	All Programs Minutes (2)	All Programs % of Total Time Operating 1/ (3)	Local Programs Only Minutes (4)	Local Programs Only % of Total Time Operating 1/ (5)
Total time operating		100%		1/
News		1/		1/
Public Affairs		1/		1/
All Other (exclusive of entertainment and sports)		1/		1/

1/ All percentages are of the total time found at the top of Column 2 in the check box

5. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted in the composite between the hours of 6–11 P.M. to the categories (see Definitions) listed. Commercial matter within a program segment would be excluded in computing time devoted to that particular program segment.

Composite Week Data for 6 - 11 PM Time Period	All Programs Minutes	All Programs % of Total Time Operating	Local Programs Only Minutes	Local Programs Only % of Total Time Operating 11/
Total time operating during 6 - 11 PM		100%		11/
News during 6 - 11 PM				11/
Public Affairs during 6 - 11 PM				11/
All Other (exclusive of entertainment and sports) during 6 - 11 PM				11/

11/ All percentages are of the total time operating between 6 - 11 PM, found at the top of Column 2 in the check box

6. If the applicant was affiliated with one or more national television networks during the past year, specify which and list all of the individual network public affairs programs during that period that the applicant was offered but never carried and indicate what programs were aired instead. If an entire network public affairs series* was not carried, the applicant may so indicate without having to list each individual program within that series, but still having to indicate what programs or program series were aired instead.

*E.g. *Face the Nation, Meet the Press, Issues and Answers.*

III. THE PROPOSED NEW RENEWAL FORM

A. The Proposed New Renewal Form Included in the Notice.

1. Using the form below, list what you consider to be the most significant problems and needs of your service area during the past twelve months (DO NOT LIST MORE THAN 10). Indicate (1) the number of programs or program segments (excluding ordinary news inserts*), (2) the amount (hours and minutes) of program time and (3) the amount (hours and minutes) of local programming devoted during the past twelve months to each of these problems or needs.

*By news inserts, we refer to the daily or ordinary news coverage of breaking newsworthy events: an insert in a newscast that is not merely coverage of breaking events but rather seeks to deal in more depth or analysis with some problem should be counted.

	PROBLEM OR NEED (Do not list more than 10) (1)	Programs Devoted to This Problem or Need			Leave Blank
		No. of Programs or Program Segments 2/ (2)	Total Program Time (In Hrs. & Min) (3)	Local Program Time Included In Col. 3 (In Hrs. & Min) (4)	
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

1/ If the report does not cover the full 12 month period, indicate period covered: _____, 19__ to _____, 19__.

2/ Do not count ordinary news inserts.

2. As Exhibit No. —, give for each problem or need listed in Form I a brief description of each program or program segment aired by the applicant during the past twelve months that addressed itself to that problem or need. Identify each program by source and indicate the time of broadcast.

3. State in Exhibit No. — the methods by which the applicant during the past three years determined the problems and needs of the public served by his station.

4. Does the applicant anticipate any significant new problems and needs in his service area during the next renewal period? Yes —, No. —.

If Yes, indicate in Exhibit No. — the new problems and needs.

5. Does the applicant expect to air during the next renewal period any new programs or program services devoted to significant problems and needs of his service area? Yes —, No—.

If Yes, indicate in Exhibit No. — the new program or program services and briefly describe these.

6. Does the applicant, during the next renewal period, plan to change the methods described in his answer to Question 3 for determining the problems and needs of the public served by his station. Yes —, No —.

If Yes, describe in Exhibit No. — the changes planned by the applicant.

7. In Exhibit No. — summarize and comment upon the complaints and suggestions received by the applicant from members of the public during the past renewal period in each of the following categories: (1) technical operations, (2) advertising, (3) employment practices, (4) criticisms of programming, (5) compliments on programming, (6) suggested programming.

8. State the total hours of operation during the most recent composite week: _____.

Composite Week Data	All Programs		Local Programs Only	
(1)	Minutes (2)	% of Total Time Operating 1/ (3)	Minutes (4)	% of Total Time Operating 1/ (5)
Total time operating		100%		1/
News		1/		1/
Public Affairs		1/		1/
All Other (exclusive of entertainment and sports)		1/		1/

1/ All percentages are of the total time found at the top of Column 2 in the check box

9. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted in the most recent composite week to the categories (see Definitions) listed. Commercial matter within a program segment should be excluded in computing time devoted to that particular program segment (e.g., a 15-minute news program containing 3 minutes of commercial matter shall be counted as a 12-minute program).

Attach as Exhibit No. — a brief description of each program included in each category. Indicate the source (see Definitions) and the number of minutes of all programs listed as News, Public Affairs and all other programs, exclusive of entertainment and sports.

10. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted to the most recent composite week between the hours of 6–11 P.M. to the categories listed. Commercial matter within a program segment should be excluded in computing time devoted to that particular program segment.

Composite Week Data for 6 - 11 PM Time Period	All Programs		Local Programs Only	
	Minutes	% of Total Time Operating	Minutes	% of Total Time Operating 1/
Total time operating during 6 - 11 PM		100%		1/
News during 6 - 11 PM				1/
Public Affairs during 6 - 11 PM				1/
All Other (exclusive of entertainment and sports) during 6 - 11 PM				1/

1/ All percentages are of the total time operating between 6 - 11 PM, found at the top of Column 2 in the check box

Attach as Exhibit No. — a brief description of each program included in each category. Indicate the source and the number of minutes of all programs listed as News, Public Affairs and all other programs, exclusive of entertainment and sports.

11. State (a) the total number of public service announcements, (b) the number of public service announcements involving local organizations and (c) the number of public service announcements aired between 8 A.M.–11 P.M. during the most recent composite week.

12. State the number of 60-minute segments of the most recent composite week (beginning with the first clock hour of each broadcast day) containing the following amounts of commercial matter.

A. Up to and including 8 minutes_____
B. Over 8 and up to and including 12 minutes_____
C. Over 12 and up to and including 16 minutes_____
D. Over 16 minutes_____

List each segment in category D above, specifying the amount of commercial time in the segment, and the day and time broadcast.

13. If the applicant was affiliated with one or more national television networks during the past year, specify which and list all of the individual network public affairs programs during that period that the applicant was offered but never carried and indicate what programs were aired instead. If an entire network public affairs series* was not carried, the applicant may so indicate without having to list each individual program within that series, but still having to indicate what programs or program series were aired instead.

14. In the applicant's judgment does the information supplied in Question 8 through 13 adequately reflect its past programming:

Yes — No —

If "no," applicant may attach as Exhibit No. — such additional information as may be necessary to describe accurately and present fairly its program service.

*E.g. *Issues and Answers, Face the Nation, Meet the Press.*

15. State the proposed total hours of operation during a typical week: _____

16. State the minimum amount of time the applicant proposes to devote normally each week to the categories listed below. Commercial matter within a program segment shall be excluded in computing time devoted to that particular program segment.

	Total minutes	Percent of total time on air	Local minutes	Percent of total time on air
(1) News				
(2) Public Affairs				
(3) All other programs, exclusive of Entertainment and Sports				
(4) Local (total Local programming, including local programs in (1), (2) and (3))				

17. State the minimum amount of time the applicant proposes to devote normally each week between the hours of 6–11 P.M. to the categories listed below.

	Total minutes	Percent of total 6–11 p.m.	Local minutes	Percent of total 6–11 p.m.
(1) News				
(2) Public affairs				
(3) All other programs, exclusive of entertainment and sports				
(4) Local (total local programing, including local programs in (1), (2), and (3))				

18. State (a) the minimum total number of public service announcements, (b) the minimum number of public service announcements involving local organizations and (c) the minimum number of public service announcements aired between 8 A.M.–11 P.M. which the applicant proposes to present during a typical week.

19. What is the maximum amount of commercial matter in any 60-minute segment which the applicant proposes normally to allow? _____ If the applicant proposes to permit this amount to be exceeded at times, state under what circumstances and how often this is expected to occur, and the limits that would then apply.

Opposition to the Initiation of Annual Reporting

107. WSAU–TV, ABC, Sonderling, and North Carolina maintain that the Commission would be in violation of the Communications Act if it really intends to file the Annual Reporting Form "without evaluation at that time", because requiring information not directly material to considerations that affect granting or denial of applications is a violation of Section 307(d) of the Act.

108. Several parties fear the filing of the Annual Reporting Form will turn into *de facto* annual renewal. NAB argues that the new procedures could easily evolve into an annual review as groups and individuals receive an open invitation to pressure stations to increase their percentages to meet self-conceived levels of programming. The Commission would inevitably be dragged into such questions and in

many instances would be forced to make yearly determinations as to the validity of the objections to the station's programming performance. WSAU–TV, GE and ABC suggest annual reports will require an annual community survey. WGN says the Commission would be forced to evaluate the annual listing of problems and needs as groups take exception to stations' good faith analysis of their communities' needs and interests.

109. The burden upon licensees that would be imposed by annual reporting is discussed in various filings. NAB says that the compiling of the programming percentages each year is a substantial undertaking which cannot be passed off as a routine station chore. Corinthian, McClatchy and Basic contend the new requirements would necessitate manpower additions. Nebraska, Sonderling and Fetzer claim that compiling the list of programs that were directed to problems and needs and breaking the programs down by time, source, etc., would be a tremendous task. Nebraska estimates that programs or program segments addressed to agriculture on a Nebraska station might run into the hundreds or even thousands each year, while Sonderling calculates that if one program segment each day was directed to each of 10 problems, the station would have to annually extract the amount of time devoted to 3,650 different entries. Metromedia says the time spent in compiling the Annual Report will rob the broadcaster of time needed to conduct continuing dialogue with the community and to program creatively to respond to viewer needs.

110. Some filings attack the three justifications given by the Commission for requiring annual reporting of programming statistics. Various parties contend that the first justification—to provide the Commission with heretofore unavailable yearly nationwide statistics regarding television programming during a given composite week, which would be valuable in shaping new policies and in making the Commission, Congress or other interested parties more informed—is insufficient to warrant the burden imposed by the annual reporting. ABC, GE, WSAU–TV, Sonderling, Corinthian and Metromedia all maintain that the statistics now available to the Commission adequately reflect television programming performance and are adequate for shaping new policies. McClatchy, Basic and WJBF–TV argue that the need for data for some unspecified possible future policy decisions hardly justifies the new requirement. Flower City suggests that if the collection of yearly statistics is the primary justification for yearly reports, then there is no need to include in those reports the list of problems and needs and programs directed to those problems and needs. These listings are not conducive to being tabulated in statistical form.

111. Other comments attack the second justification given by the Commission for requiring annual reporting of programming statistics—to enable the Commission to make a more complete evaluation of programming performance of the licensee during the past renewal period. Several parties, including WGN and WJBF–TV, suggest that the Commission could achieve the same purpose by expanding its com-

posite week showing every three years to include days from all three years, as for example, by having a 21 day composite week which would include 7 days from each of the 3 years in question. Sonderling, Corinthian, Stuart, KUTV, and Flower City question the need for the Commission to have any more statistics in order to make a public interest determination.

112. The third justification given by the Commission for requiring annual reporting of programming statistics—to enable it in a comparative hearing to more readily ascertain if programming during the first two years of the license period differed significantly from programming during the third year—was also attacked in various filings. WSAU–TV, ABC, Sonderling, McClatchy, Basic, Corinthian, and Flower City all contend it is unnecessary or unjust to require every licensee to file an annual report just to enable the Commission to assess "upgrading" in a handful of comparative hearing cases. WGN and WJBF–TV say the Commission could achieve its objectives by broadening the scope of the composite week in the triennial showing.

113. *Conclusions.* As will be discussed in later paragraphs, we have decided that certain materials included in the proposed Annual Reporting Form need not be compiled annually, and that other materials proposed in the form need to be compiled each year for inclusion in the public inspection file, but need not be sent to the Commission until renewal time. We will, however, require that the statistics which were to be obtained from proposed Questions 3 and 4 of the Annual Reporting Form be sent to the Commission each year as the Annual Programming Report. These composite week programming statistics will be directly material to considerations affecting granting or denial of renewal applications, just as composite week programming statistics have been in the past.

114. The annual filing of the programming statistics will not result in *de facto* annual renewal any more than the annual filing of financial information (Form 324) has resulted in an annual evaluation and determination of whether the licensee is financially qualified. Form 324's have been traditionally used in determining financial qualifications only at renewal time, and only in conjunction with other information filed with the renewal application, as for example, the licensee's balance sheet. Similarly, the information submitted by the licensee in his Annual Programming Reports will be considered in our public interest determinations regarding the renewal of his license only at renewal time, and only in conjunction with other relevant information regarding the licensee's programming, as, for example, the annual listing of programs aired to help meet significant problems and needs of the service area and the responses to various questions in new Section IV–B of Form 303. It is possible that members of the public may try to influence stations to increase their programming percentages each year, but we will not let ourselves "be dragged into such questions" during the renewal period any more than we have been or intend to be "forced" into a yearly evaluation of how well a station is ascertaining and meeting the problems and needs of his service area.

115. As will be indicated in paragraphs 128, and 141–146, we have decided that licensees need only list typical and illustrative programs in their annual listing of significant problems and needs of the service area and programs aired to help meet them. This should considerably reduce the burden placed upon licensees by our new requirements. After detailed consideration, however, we have determined that the burden of compiling and submitting programming percentages each year should be retained. The process by which we made that determination is outlined in the following paragraphs.

116. We first re-affirmed a conclusion reached prior to the issuance of the Notice; that while the statistical approach of using a composite week to reflect the past programming of licensee was sound, the data base (seven days every three years) being used to implement that approach was insufficient and should be expanded to seven days every year. We then considered the question of whether to announce each year the seven days which would constitute one of the licensee's composite weeks, or to adopt the approach of announcing every three years an expanded twenty-one day composite week. Currently, we announce each summer a composite week which is used by all licensees whose licenses expire during the following calendar year, and is ignored by all other licensees. One alternative would be for us to continue this practice, and merely announce each summer an expanded twenty-one day composite week which would be used by all licensees whose licenses expire during the following calendar year, and would be ignored by all other licensees. This would, however, necessitate our limiting the number of months which would be used in selecting the twenty-one day composite week, and result in the twenty-one day composite week being selected from a twenty month period, rather than from a thirty-six month period. For example, if we issued on August 1, 1974,[6] a Public Notice announcing the twenty-one day composite week which would be used by all licensees whose licenses expired in 1975, our twenty-one day composite week could not begin before December 1, 1972 (the first day of the current license period for December 1, 1975 renewal applicants) and could not extend beyond July 1, 1974 (in order to ensure that 1975 renewal applicants did not know beforehand that a specific day was to be included in the composite week).

117. We could eliminate the problem referred to in paragraph 116 by having a different twenty-one day composite week for each group of renewals—that is, by having one twenty-one day composite week to be used by licensees whose licenses expire in February, 1975, a second twenty-one day composite week for April, 1975 renewal applicants and so forth. This would, of course necessitate our selecting six different composite weeks each year and sending out six different Public Notices annually. We would be willing to assume those additional burdens if the ultimate benefits that accrued to licensees, the Commis-

[6] With the changes of filing dates discussed in Part Two of this Report and Order, February 1, 1975 applicants would be filing their renewal applications by October 1, 1974 and would want to know by at least early August, 1974 the twenty-one days to be included in their expanded composite week.

sion and the public warranted it. But we question whether real benefits would accrue from such an approach. Broadcasters would still have to compile (all at one time) programming statistics based on twenty-one days of programming. Moreover, these statistics would have to be compiled at the same time as licensees would be compiling information to complete Form 303, and at the same time as the latest annual listing of significant problems and needs of the service area and programs aired to help meet those problems and needs was being finalized for placement in the public inspection file.

118. In fact, in one important way the broadcaster would be at a distinct disadvantage if an expanded twenty-one day composite week announced every three years were adopted in lieu of a yearly seven day composite week announced annually. In receiving his renewal grant a licensee makes certain representations regarding the non-entertainment and local programming he will broadcast during a typical week during the license period. The basic measure of the extent to which those representations have been fulfilled is the programming broadcast during the composite week. With a yearly seven day composite week announced annually, unlike an expanded twenty-one day composite week announced at renewal time, the licensee would be able to know at periodic intervals during the license period whether promise versus performance problems are suggested by some of the composite week programming statistics, and would be able to immediately take whatever appropriate action is necessary to ensure that such problems are not suggested in the remaining composite week statistics for the license period.

119. On the other hand, we believe there are distinct advantages of announcing over a three year period three seven day composite weeks, rather than announcing at renewal time one twenty-one day composite week. The burden of compiling the statistics would be spread out over three years rather than concentrated at renewal time when other burdens are concentrated. The licensee would have an indication relatively early in the license period of whether at least a portion of his composite week statistics [7] might reflect any deviations between promise and performance, and whether alterations in his program schedule might be appropriate to ensure that his representations made in his last renewal application match the composite week statistics that will appear as a part of his next renewal application. Then too, interested members of the public would be able to have more information during the license period regarding the licensee's programming. Hopefully, this increased information coupled with the annual listing of problems and needs and programs aired to help meet them will lead to more continuous, informed, and constructive dialogue between viewers and listeners throughout the license period.

[7] Due to the staggered expiration dates, a portion of the composite week in one of the years of the renewal period will, in varying degrees, overlap with another license period. With the aid of the program descriptions (including the date of the program) which accompany the Annual Programming Report, however, we will be able to distinguish programs aired during another license period, should that ever be deemed necessary.

120. Having determined the desirability of annually informing all licensees of a seven day composite week, we then considered the merits of having all licensees use the identical seven days as their composite week and requiring that the composite week statistics be submitted annually rather than at renewal time. Several distinct advantages would seem to accrue to the Commission from annual submission by all licensees of programming information from a uniform composite week. Annual statistical information from the Annual Programming Report could be computerized and tabularized in a variety of ways, much as is the annual financial information obtained from Form 324. This information would not only be of general use in revealing industry trends, it would also have specific applications to specific areas of inquiry and policy. For example, if Annual Programming Reports (and accompanying exhibits containing brief descriptions of non-entertainment and local programming) had been filed in the past several years, we would now be able to much more easily and readily determine the impact of the prime time access rule on the amount, nature and placement of prime-time non-entertainment and local programming on all commercial television stations. Similarly, regression analysis of information obtained from the Annual Programming Reports and Form 324's as well as from other sources of annual industry statistics would aid us in better determining important variables affecting programming diversification in television. This knowledge would, of course, be of significant value in evaluating and predicting the implications and impact of various Commission policies.

121. Annual Statistics reflecting programming aired by all licensees during an identical seven day composite week would also be useful in the compilation of annual statistical profiles of individual stations in order to see how the programming of renewal applicants compared during the license period with the programming of similar stations (similar in terms of market size, presence or absence of network affiliation, and so forth) around the nation during the identical period. In any such comparison the advantage of having all stations using the same composite week would be offset if we did not require simultaneous annual filing of the statistics which would permit rapid simultaneous annual processing and analysis of the comparable data. While we are not adopting a ranking procedure such as that proposed in the Notice which would automatically determine which renewal applications would continue to be processed and approved solely by the staff under delegated authority and which would only be approved by the Commission, we recognize that on occasion, demands of staff and resources may well prevent the Broadcast Bureau from devoting all the attention it would like to devote to each renewal application in a given renewal group. In such circumstances, the annual statistical profiles of individual stations in the renewal group used in conjunction with statistics indicating the programming of all other similar stations during the identical period, might well be used by the staff in rapidly selecting those applications which would receive the greatest amount of time and attention.

The New Approach to Reporting on Ascertainment and the Meeting of Community Needs

122. Support for the new approach is expressed or implied in various filings. Westinghouse says the revision is appropriate because (a) the focus will now be an actual programming performance, (b) the new method recognizes that ascertainment is a continual process, and (c) the retrospective reporting method should enable licensees to provide more precise and reliable data. NAB and KAKC believe the method of listing problems and needs to be much preferable to the Primer and ask the Commission to apply the new approach to radio at the same time as it is applied to television. But NAB opposes a yearly filing of problems and needs and says that a filing every three years would be sufficient. A similar position is held by North Carolina and WJBF–TV. Flower City commends the Commission for abandoning the Primer-type survey, and CBS, ABC, WSAU–TV, and GE request that the Commission make it clear that the Primer requirements would not be applicable to the annual reporting of problems and needs. Paducah says the Commission's approach is a superior avenue for encouraging station community activities and provides a more realistic basis for review of local involvement than the mere examination of comments inspired by the announcements proposed in Part One of the Notice.

123. Opposition to the new approach, particularly the anticipated termination of the applicability of the Primer for renewal applicants, is raised by citizen groups. ACLU claims that disposing of the Primer would eliminate the most important feature of the whole ascertainment procedure—the incentive to apply the modern techniques of the social scientist to uncover the actual demographic conditions of the communities to be served. BEST contends that the Annual Report, even when coupled with the announcements proposed in Part One of the Notice will not be as successful as the Primer in promoting or sustaining a continuing dialogue. BEST says that with the new approach all case law regarding ascertainment procedures disappears and is replaced by uncertainty as to what constitutes a positive, continuing effort. BEST maintains that under the new system grounds for a hearing should exist whenever a prima facie showing can be made that (a) the licensee had not engaged in dialogue with leaders and/or the public in arriving at his list of needs; or (b) that a major need was not reported; or (c) that a need was reported but was not listed as one of the ten most significant problems, even though a cross-section or random sample of leaders and/or the public believe the need was greater than some of the needs that were so listed. Otherwise, according to BEST, we are back to the "good faith" judgments of broadcasters that may be based on nothing more than personal predilection. NOW submits that with the new approach the broadcaster's subjective judgment of needs would no longer be measured against the judgments of representative community leaders and the broadcaster would no longer be required to seek information from

representatives of the public prior to formulation of program plans. NOW submits that without the Primer requirements, most of the officially filed evidence of broadcaster efforts or lack thereof to determine the composition of the community and its needs would be eliminated, and without such records, women would find it difficult to prove their needs were overlooked.

124. United Church argues that there has been a vast improvement in the quality of community surveys since the Primer was adopted, and the virtue of the present situation is that the community itself provides ascertainable standards by which program service can be measured. Under the new approach, the licensee is invited to define community needs, not as a guide in planning future programs, but rather as a rationalization of his past performance. According to United Church, the Supreme Court decision in *Red Lion Broadcasting Company* v. *FCC* (395 U.S. 367 (1969)) made it clear stations may not be used simply to deal with community problems as seen by the broadcasters. They should deal with problems as seen by responsible leaders representing all elements of the community. Urban League contends that however ill-reasoned, ill-perceived or unfounded the applicant's conception of needs, the mere fact he had this conception would fulfill the Commission's requirements. Moreover, the licensee would simply have to say what he thought the needs were rather than be required to show what they were. Urban League maintains that Section 308(b) of the Act requires applicants to set forth facts the Commission may require, not opinion or speculation. If opinion is expressed, the facts on which it is based should be set forth.

125. Alternatives to either retaining existing requirements or adopting the proposal outlined in the Notice are suggested in several filings. United Church outlines a "compromise" solution whereby the Primer would be retained but detailed survey information need only be kept at the station as part of the public file, and need not be sent to Washington. United Church claims that while it is impracticable to expect the Commission to undertake a detailed review of survey information, it is not too much to expect stations every three years to review the most recent demographic data and re-open contact with leaders representative of all the significant groups in the community. If there are deficiencies in the surveys, the public can bring those deficiencies to the Commission's attention. BEST in Reply Comments says it would not object to the licensee not being required to submit to the Commission the information supporting his ascertainment, providing such information is available at the local level for inspection and duplicating facilities are available at nominal cost, and providing that all back-up material, including individual interview sheets (unless the licensee can produce a request for confidentiality signed by the interviewee and unsolicited by the licensee), are also available. Foley in Reply Comments says United Church has a good suggestion since formal ascertainment is desirable but, as his study of 1971 renewal applications indicates, some stations are presently filing with

the Commission hundreds of pages of unanalyzed and untabulated data. Only about one-third of the 1971 applications examined by Foley presented any sort of tabulation summarizing even a part of the data collected in the ascertainment. Only about one-tenth of the applications showed any attempt to relate the needs to the findings of the surveys. Yet Foley contends the Commission should at least require some summary and analysis of the data to be sent to Washington, even if raw data would remain at the station and even if no evaluation of the data was required.

126. ABC, WSAU–TV and GE recommend the Commission eliminate the requirement for submitting detailed survey information of methods and results, but not substitute anything for that requirement until matters relating to Docket 19154 (36 FR 3939) are resolved. Nebraska, McClatchy and Basic suggest the Commission eliminate the Primer requirements entirely and forget about the Annual Report approach. Nebraska argues that licensees should be free to adopt their own ascertainment methods and that annual reporting of programs to meet needs would be an almost impossible task which would put naked pressure on quantity versus quality. McClatchy and Basic suggest that the Commission eliminate the Primer requirements and forget about annual reporting, and merely ask the renewal applicant to describe in detail in his renewal application his ascertainment procedures, the problems and needs of his community, and the programs he has aired or proposed to air to meet those problems and needs.

127. *Conclusions.* In proposing that commercial television licensees annually list the problems and needs of their communities and the programs they aired during the year directed to those problems and needs, our intention was to develop a mechanism by which the licensee's conception of current significant community problems and needs and his efforts to meet them could be made available to the public on a continuing basis. The television announcements proposed in Part One of the Notice would serve to remind the public of the annual listings and to invite examination of and comment on them. Our hope was that in this manner continuous dialogue between licensees and members of the public concerning what both consider to be the major problems and needs of the community would be encouraged, so that any dissatisfaction with a licensee's conception of community problems and needs or his efforts to meet them would be immediately communicated to the licensee, resulting in local resolution of such dissatisfaction as it arises, and eliminating the need for the filing of a petition to deny license renewal.

128. As indicated earlier, the number of petitions to deny that have been filed since the proposals in the Notice were issued in February 1971 have significantly risen. One of the most common complaints raised in these petitions relates to allegations that the licensee in question has failed to meet the problems and needs of the community, a fact which seems to confirm the desirability of the annual listings. Thus we have decided to adopt a requirement that all commercial

television licensees annually compile a list of significant problems and needs of his service area during the past twelve months, and typical and illustrative programs aired during that period that were designed to help meet them. Since, as indicated in the Notice, we would not normally examine these annual listings during the license period, we will not require these listings to be sent to Washington until renewal time. Licensees will, however, be required each year to place the new listings in their local public inspection files on the anniversary date on which renewal applications are due. The three annual listings for the current license period (including the lists to be placed in the public inspection file upon filing of the renewal application) will be required to be submitted as part of the renewal application. (See Appendix B and Question 1 of revised Section IVB of Form 303 in Appendix E).

129. There still remain the questions of how adequate ascertainment of problems and needs can best be assured and the manner in which commercial television licensees should report on their ascertainment efforts. Positive, continuing, and diligent efforts by licensees to ascertain the needs of the community has long been a basic Commission policy. (*En Banc Inquiry re: Programming*, 25 FR 7291, 7295 (1960).) To clarify our policies and provide guidelines for meeting our requirements with respect to ascertainment we adopted in February 1971 (on the same day as the Notice in this proceeding was adopted), at the request of the Federal Communications Bar Association, the Primer on Ascertainment of Community Needs (27 FCC 2d 650) (36 FR 4092) applicable to all commercial licensees. In releasing the Primer we expressed our belief it would "aid broadcasters in being more responsive to the problems of their communities, add more certainty to their efforts in meeting Commission standards, make available to other interested parties standards by which they can judge applications for stations licensed to their community, and aid our staff in applying standards uniformly." We indicated, however, that with respect to renewal applicants the Primer was to serve "as an interim measure until other standards are adopted."

130. In March 1973 we issued a Notice of Inquiry in the Matter of Ascertainment of Community Problems by Broadcast Applicants (Docket 19715). The purpose of the Inquiry is to determine "whether present ascertainment requirements serve the public interest in the most effective way possible and, if not, [to determine] what improvements could be made to accomplish that objective." After evaluating the comments received in response to the Notice, we will decide what, if any, changes in the present methods of ascertainment should be proposed in the form of a Notice of Proposed Rulemaking.

131. As to the matter of the licensee's reporting on his ascertainment efforts, we will no longer require the commercial television renewal applicant to submit as part of his renewal application details regarding methods by which the significant problems and needs of his community were ascertained. We will, however, require such applicants to represent in their renewal applications that he has followed the Commission's current guidelines (presently, the Primer) in ascertaining the problems and needs of his service area. The renewal applicant

will also be asked to represent that upon renewal filing, all relevant materials regarding his ascertainment during the current license period have been placed in the station's local public inspection file.

(See Question 1B of revised Section IV–B of Form 303 in Appendix E). We may, of course, from time to time request to see these materials. Normally this would occur because a specific question has been raised regarding the adequacy of ascertainment by a particular licensee. On other occasions it might occur because we have decided to reassure ourselves that all commercial television licensees are undertaking adequate ascertainment of community needs and have picked at random several commercial television renewal applicants whose ascertainment materials we will examine.

Comments Directed to Specific Questions of the Proposed Annual Reporting Form—Questions 1 and 2

132. Several parties discuss the first part of Question 1, the listing of problems and needs. Sonderling recommends the Commission clarify the scope of the phrase "significant problems and needs." Is the Commission thinking of a broad subject, as, for example, pollution, or one more narrowly defined, as, for example, air pollution, water pollution or noise abatement. NBC says the Commission should make it clear that problems and needs include problems of national and international significance. BEST submits that the geographic range of needs is uncertain. Presumably, the primary obligation of the licensee will remain to his city of license with lesser obligations to other parts of his service area, but this is unclear.

133. BEST wonders why the list is limited to ten problems, since the number bears no relationship to the number of pressing needs that may exist. BEST notes that Question 19 of the Primer says if an applicant for a construction permit or transferee uncovers only a few problems, he must redouble his efforts to discover more community problems. Urban Law, Storer, and Fetzer agree with BEST's contention that limiting the list to ten problems makes the listing too general and of no value. Foley in Reply Comments, however, suggests that while the stations will be general in defining the needs, the variety of programs and program segments listed under each of the needs would illustrate the depth to which the station is meeting the needs it has identified. Foley maintains that his study of 1971 renewal applications indicates it is presently impossible to determine how well an applicant's programming meets the needs he identifies. Proposed Question 1 should help solve this problem by clearly linking programming to the ten major needs.

134. CBS, Fetzer and BEST are concerned that all program development and nonentertainment programming will be channeled only towards the ten current community problems. Baldwin expects stations to determine ten categories after reviewing their programming during the preceding twelve months and then list those ten as the most significant problems and needs. He thinks it would be more realistic to ask for the number of programs, amount of time, and amount of local time devoted to major problems and needs treated by the station. Sonderling predicts serious logging problems caused by the necessity to list prob-

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lems and needs. It wonders how the traffic department can discern in October what will be the most significant problems and needs of the following August.

135. In comments regarding the second part of Question 1 (columns 2, 3, and 4 of the form) and Question 2, Urban Law notes that the present renewal form asks for a listing of programs to *meet* problems and needs while Question 1 of the proposed Annual Report asks for programs *devoted* to problems and needs and Question 2 asks for programs *directed* to problems and needs. Urban Law claims there is a significant difference. NBC and Westinghouse think the Commission should delete the requirement of indicating the source of the programs dealing with problems and needs. NBC argues that the substance rather than the source of the program is what matters to the public, and the licensee should be permitted discretion as to the manner in which he will serve needs and the various sources of programs he will utilize. Westinghouse says the requirement is unnecessary since other Questions, especially those on the three year form, will provide quantitative and descriptive programming information.

136. Several parties maintain that the Commission should not exclude "ordinary news inserts" from being listed in answering the second part of Question 1 and Question 2, especially without giving a justification for the exclusion. CBS submits that ordinary news inserts constitute an important part of any station's exploration and coverage of significant community problems. To exclude news inserts would be to discriminate against the news format, in favor of the less effective public affairs format. Mt. Mansfield argues that analysis is uniformly recognized by responsible professional journalists as having no place within the body of a newscast. The Commission's proposed policy forces a station to deviate from established practices and principles and insert analysis in newscasts in order to have more items to list in answer to Question 1. Mt. Mansfield also fears that excluding news stories will curb a desirable trend to longer local news programs. Corinthian suggests that in Docket 19154 the Commission recognizes that routine news coverage serves the function of informing the public of problems and needs as does public affairs programming. Flower City cites Question 33 of the Primer which says news programming can be considered as programming to meet community needs.

137. CBS and BEST note that Question 4 of the existing Section IV–B of Form 303 asks for a description of programs to include source, type, times broadcast and extent, if any, to which community leaders or groups are involved, and suggest that the new Question 2 should ask for similar descriptions. BEST asks that in answering new Question 2, stations be required to include all aspects of the description of programs in the current Question 4. CBS recommends that this be done *in lieu of* the requirement to answer the second part of proposed Question 1; that is, instead of having to list the number of programs, the amount of program time and the amount of local programming devoted to each of the (up to ten) problems and needs listed. CBS contends that the information called for in the second half of Question 1 (columns 2, 3 and 4 of the form) is extremely burdensome if not impossible to compile, and would in any case be grossly unreliable, espe-

cially the time measurements. CBS says its approach would avoid the implication that each program or program segment is to answer only one specific problem, an implication which would inhibit exploration of new program ideas and other problems. CBS argues that a representative listing (as opposed to a listing of each program segment) in Question 2 would be adequate for the Commission's purposes.

138. With regard to Question 2, NBC agrees with CBS that a sample showing of program or program segments aired for each problem or need should be all that is required. NBC refers to the record keeping and recording burden that would be imposed by the Commission's proposal, especially on those licensees carrying substantial amounts of public affairs. NBC says the Commission could always ask for further information if it were needed.

139. CBS, Mt. Mansfield and Sonderling ask that if the Commission decides to exclude ordinary news inserts from being listed, it should further clarify what is meant by "ordinary news inserts." CBS doubts a distinction can be made between ordinary "coverage of breaking news" and "news that seeks to deal in more depth and analysis." Mt. Mansfield asks if a carefully prepared documentary with only factual expository material without analysis could be listed; if so, why not a carefully prepared news story? Sonderling wonders if a station which listed IndoChina as one of the most significant problems, in answering Question 2, would be able to include as a program or program segment President Nixon's address regarding the China trip, or a segment of a newscast at 11:00 PM which either summarized the President's remarks or played back his address in toto.

140. NBC and Storer contend that the Commission should allow public service announcements (PSA's) devoted to significant problems and needs to be listed. NAB refers to Questions 28 and 30 of the Primer which indicate that announcements may be relied upon at least as a partial means of meeting problems and needs. Storer also refers to Question 28 of the Primer and recommends that licensees, at least on an optional basis, be allowed to list PSAs. Sonderling wonders whether a station which has listed race relations as one of the most significant problems of his community could list *Lilies of the Field*, *A Patch of Blue*, or *Guess Who's Coming to Dinner* in answering Question 2.

141. *Conclusions.* As indicated in paragraph 128, licensees will be required each year to compile a list of significant problems and needs of their service area and typical and illustrative programs or program segments aired to help meet those problems and needs. These lists are to be placed in the local public inspection file on the anniversary date on which renewal applications are due. Upon filing of the renewal application, all renewal applicants are to forward to the Commission the three annual listings for the current license period (See Appendix B and Question 1 of new Section IV–B of Form 303 in Appendix E).

142. Licensees will be asked to limit their lists to ten problems and needs. As Foley suggests, this will make it possible for us to obtain detailed information regarding the programming aired to help meet each of the problems and needs listed. We have also restated the requirement so that licensees are to list (up to ten) "significant problems

and needs" of the service area rather than "the most significant problems and needs". This will perhaps result in a greater total number of significant problems and needs being listed (and hopefully met) by the total number of licensees in a given service area.

143. To eliminate the inconsistency cited by Urban Law (See Paragraph 135), the questions now refer to "programming to help meet problems and needs." Identification of the source of each program or program segment is still required, although we would expect that programs aired to meet significant problems and needs of the service area would be primarily local.

144. The exclusion of ordinary news inserts will be retained. This is not to deny the value of such inserts or to discriminate against the news format. On the contrary, news programming has long been regarded as one of the most significant means of contributing to an informed electorate and helping to meet community problems and needs, and has therefore, been included as one of the four major programming categories in the new Annual Programming Report. But proposed Questions 1 and 2 were designed to supplement general information regarding composite week programming of "News," "Public Affairs," and "Other" that would be obtained each year from proposed Questions 4 and 5.

145. With respect to the problems of defining "ordinary news insert," we recognize that situations may well arise where there is some question regarding whether a program is or is not an ordinary news insert. But it is not our intention to evaluate stations merely on the basis of the number of programs or program segments or the amount of program time listed. Nor do we think that the problem of definition of "ordinary news inserts" will be crucial to evaluation of a licensee's efforts to help meet local problems and needs, since we doubt licensees would put themselves in a position where the only programs or program segments which were listed each year were those that were on the borderline of being ordinary news inserts.[8] By the same token, while we will allow licensees to list *Lilies of the Field* and *A Patch of Blue* as helping to meet the problem of race relations, we doubt that licensees who list race relations as one of the significant problems and needs of their service area will want to have no other programs or program segments listed as helping to meet the problem. PSAs, however, should not be listed since new Section IV–B of Form 303 has specific questions concerning PSAs.

146. The burden of record keeping referred to in various filings should be considerably reduced by our decision to require that only typical and illustrative programs be listed opposite each significant problem and need. We also have decided to impose a page limitation of five pages on the listing of problems and needs and typical and illustrative programs aired to help met them. Licensees will, however, be able (at their option) to supplement these listings by placing in their public inspection file additional material, identified as a continuation of the listings and subject to Commission inspection. (see paragraph 212).

[8] If, of course, experience suggests a more precise definition of "ordinary news inserts" is required, we can always draft and release such a definition.

Questions 3, 4, and 5

147. Several parties commenting on Questions 3, 4 and 5 of the proposed Annual Reporting Form (which correspond to Questions 8, 9, and 10 of the proposed new Section IV–B of Form 303) think that the proposed 6–11 PM prime time classification should be expanded beyond 6–11 PM. WSAU–TV recommends 4:30–11 PM, while ABC and GE recommend 5–11 PM. All three parties state the changes would enable stations who wished to continue to counter-program by offering news at earlier hours, to do so without being penalized. Moreover, the public would be better off by having some stations offering news from 5–6 PM. Corinthian opposes the separate 6–11 PM classification or any separate classification. Cohn & Marks recommends 5:30–11:30 PM. It argues that those stations now programming news at 5:30 PM would, under the Commission's 6–11 PM classification, be forced to move the news to 6 PM whether that served the public interest or not. WSAU–TV says the 6–11 PM classification should be responsive to the different time zones.

148. BEST recommends that the 6–11 PM classification for local programming devoted to "News", "Public Affairs" and "Other" be joined by two other classifications—8AM–6PM and All Other Hours. BEST notes that Question 5 of the existing form has local programming divided into three categories: 8AM–6PM, 6PM–11PM and All Other Hours. It submits these three categories should be included in both the Annual Reporting Form and the new Section IV–B of Form 303 in the enumeration of "News", "Public Affairs" and "Other".

149. As indicated in paragraph 106, the Commission asked for comments regarding the adequacy of the present definitions of "News", "Public Affairs", "Other" and "Local" and asked whether "News" and "Public Affairs" should be viewed together as one category. WSAU–TV, GE and ABC believe that existing definitions are adequate, while Westinghouse thinks the definition of "local program" should be revised by eliminating the requirement of employing live talent in more than 50% of the program. Westinghouse submits that valuable programs, including locally produced documentaries, are created and produced locally by stations which employ no live on camera talent. Corinthian and Flower City ask the Commission to keep in mind that the new source classifications exclude commercial time which may well cause confusion in comparing promise vs. performance. Flower City says that the difference between gross time (present Section IV–B of Form 303) and net time (proposed Section IV–B of Form 303) may be as much as 20%, depending on the amount of commercial matter carried. Flower City recommends the Commission keep the total programming time approach of the present Section IV–B.

150. Westinghouse, Gill, McClatchy, Basic, Corinthian and Flower City contend that "News" and "Public Affairs" should be combined into one category. These parties argue that combining the categories will eliminate the necessity for making "hairline" and often arbitrary distinctions in classifying programs which essentially serve the same functions. Flower City gives three examples of the present difficulty of classifications: (1) live coverage of a Presidential news conference; (2) an interview during a news program with SALT talk

Ambassadors, each stating his own country's position; (3) a report by the Vice President on the Vietnam War.

151. On the other hand, Urban Law and BEST oppose combining "News" and "Public Affairs" into one category. Urban Law says combining the categories would remove the licensee's incentive to provide imaginative, in-depth coverage of matters of public concern and would greatly complicate the already difficult task of examining a licensee's commitment to provide more than mere news coverage. BEST says that combining the categories would provide an incentive for licensees to program more cursory coverage associated in news programming and avoid the less profitable, but more detailed treatment that can be accorded in the public affairs format. BEST notes that licensees generally include relatively long lists of public affairs programming in providing qualitative analysis in their applications, while qualitative information regarding news programs are not included. NAB feels the question of combining "News" and "Public Affairs" should be delayed until resolution of Docket 19154.

152. *Conclusions.* As indicated in paragraphs 113–121 and for the reasons stated therein, we have decided to require that the yearly composite week programming statistics which were to be obtained from Questions 3, 4, and 5 of the proposed Annual Reporting Form be sent to the Commission each year. We will also require (as is now required in Section IV–B of Form 303 and was proposed in Questions 9 and 10 of the proposed new Section IV–B) that basic information regarding each program included in each category ("News," "Public Affairs," and "Other") be submitted with the statistics.

153. After evaluating our experience with the classification of time periods in the current Section IV–B of Form 303, analyzing available relevant data concerning national television viewing habits and audience levels, and reviewing both the comments filed in response to the Notice and those made at the July 11, 1973, OMB meeting (see footnote 11 on page 62) we have decided that the Annual Programming Report should classify programming in three time periods: 6 AM to Midnight; 6 PM to 11 PM;[9] and Midnight to 6 AM. The first classification could be considered a "standard broadcast day", the second classification has proven to be useful in current Section IV–B, and the third classification will provide information that will not be provided by either of the first two classifications.

154. The present definitions of "News", "Public Affairs", "Other" and "Local" will be retained. We recognize that some valuable programs may be locally created and produced without employing live on camera talent and have ensured there is adequate provision in the new Section IV–B of Form 303 for licensees to indicate that such programs have been aired. (See especially Question 7B of new Section IV–B of Form 303 in Appendix E.) We have decided, however, to *include* commercial time in the source of classifications used in the Annual Programming Report and new Section IV–B.

155. Although we may wish to re-evaluate our decision at some future date, we will continue for the present to separate "News" and "Public

[9] Stations in the Central Time Zone and Mountain Time Zone shall use 5–10 PM rather than 6–11 PM.

Affairs". We understand that it is sometimes difficult to distinguish between the two types of programming, but past experience with the definitions indicates that normally the distinction can be made. Moreover, the licensee will be required to briefly describe the composite week programming he has classified as "Public Affairs" in his Annual Programming Report. These program descriptions will help reveal the fact that a program segment listed by the licensee as "Public Affairs" could be categorized by another licensee and/or the Commission as "News".

Question 6

156. Support for Question 6 of the proposed Annual Reporting Form (which corresponds to Question 13 of the proposed new Section IV–B of Form 303) comes from ABC, United Church and BEST. BEST thinks the question would be a vast improvement over the only question in present Section IV–B dealing with network affiliation. But other parties oppose the question and recommend its deletion. NBC says that while it believes affiliates should carry network public affairs programs, stations failing to carry them are not *ipso facto* failing to serve viewer's needs, nor should they be called by the Commission to account for their failure in each and every case. NBC also objects to the implication that stations must make a direct substitution of some comparable program if it pre-empts a network public affairs series. The affiliate may wish to program a local public affairs series at some other hour. WGBF argues that service should be evaluated on programs carried, not upon programs available and not carried. McClatchy notes that the Commission's 1960 Policy Statement says licensees should not be required to record and justify their individual programming decisions in terms of anything other than an overall operation in the public interest.

157. Several filings claim the question will have the effect of compelling affiliates to carry network public affairs programs because no station will be willing to assume the risk of being criticized for not carrying them. Cohn & Marks claims that promoting the views of those who control and direct network public affairs programming rather than promoting the dissemination of the widest possible gamut of views would be contrary to the public interest as reflected in the First Amendment. Corinthian maintains that Question 5 is inconsistent with the emphasis on local programming in Docket 19154. Mt. Mansfield urges the Commission to clarify the purpose of the question and to explain why it is interested in the programs which the licensee substitutes for network programs he judges to be unsatisfactory.

158. Three parties suggest expansion of Question 6. Baldwin thinks the question should be expanded to determine if network public affairs was carried on a delayed basis, and if so, when it was originally scheduled and when it was aired. Baldwin submits that the proposed question does not distinguish between programs carried at the same time as they were aired by the network and programs carried on a delayed basis, perhaps at very inconvenient hours for the majority of viewers. ABC recommends the question be expanded to require affiliates to

report on clearance of network news programs, and if such programs were carried on a delayed basis, to require the licensee to explain why this was done. United Church feels the question should be expanded to require licensees to report on clearance of all network programs, including entertainment. United Church refers to criticism raised by minorities after pre-emptions of certain network entertainment programs featuring such entertainers as Sammy Davis, Jr.

159. *Conclusions.* While we have decided not to require the detailed information proposed regarding each network news or public affairs program never carried and the programs aired instead, we agree with ABC that some information regarding clearance of network news as well as network public affairs would be useful. Thus we have included as Question 5 of new Section IV–B of Form 303 the following:

> 5.A. If during the license period the applicant was affiliated with one or more national television network, indicate below the name of the network or networks and the dates of affiliation.
>
> B. If a network affiliate, did the applicant regularly carry (i.e., carry more than 50% of the programs offered during the current license period) available network (news and public affairs):
>
> | | Yes | No |
> |---|---|---|
> | (a) News | ☐ | ☐ |
> | (b) Public Affairs | ☐ | ☐ |

160. In including the revised question, we do not suggest that stations failing to carry a majority of the network news or public affairs programming offered them are *ipso facto* failing to serve viewers' needs. Nor do we wish to imply that the carriage of any particular network news or public affairs program is necessarily in the public interest. This Commission has long recognized the principle that a licensee can, and indeed must, make his own judgments as to whether a particular program or series should or should not be presented over his facilities, irrespective of the source of the preferred material. Further, we agree that service should primarily be evaluated on the basis of programs carried rather than on those not carried, and that the overall operation of the station should be the determining factor at renewal time. The fact remains, however, that public affairs and news programming has long been recognized as contributing to an informed electorate and as an important element of program service, and the proposed question provides relevant information regarding programming of public affairs and news. The information obtained from the question will supplement information obtained from the annual quantification and description of composite week public affairs and news programming, and information regarding public affairs and news programming contained in the annual listing and description of programs and program segments directed to help meet significant local problems and needs of the service area. The sum total of information will enable both the public and the Commission to make a much more informed evaluation than is now possible regarding a renewal applicant's decisions during the current license period with respect to the programming of public affairs and news.

Recommended Additional Questions on the Annual Reporting Form

161. Westinghouse thinks the Annual Reporting Form should have a question enabling stations to submit additional information if they consider the composite week data for the year in question to be unrepresentative of overall performance in that year. Such a question would correspond with Question 14 of the current Section IV–B of Form 303. ACT recommends and United Church supports the addition of the following questions to both the Annual Reporting Form and revised Section IV–B of Form 303.

1. Did the licensee provide news or informational programs aimed at children? State the names of such programs, a brief description and the time aired.
2. At what time and how often did the licensee provide talks, discussions or documentaries designed specifically to meet the interests of children of a specific age group?
3. What programs were aired to entertain children? What age groups were the programs designed for and at what times of day were they aired?
4. What locally produced children's programs were presented by the licensee? At what times of day were they aired?

162. ACT claims that a definition of children's programs can be agreed upon. It notes that all three networks have Vice Presidents in Charge of Children's Programs and assume that the networks thus know what is meant by "children's programs." ACT indicates it considers the Commission's definition of children's programs included in its Notice of Inquiry and Proposed Rulemaking regarding the ACT petition (Docket 19142) to be acceptable.

163. *Conclusions:* Licensees will be given the opportunity at renewal time to submit additional information if they consider data from license period composite weeks in the Annual Reporting Form to be unrepresentative of overall performance during the year in question (See Question 7B in new Section IV–B in Appendix E). But as we stated in the Notice we do not intend to evaluate the licensee's overall program performance until renewal time and we are not initiating an annual renewal process. In order to prevent any possible confusion regarding our intention, we will not add a question on the Annual Programming Report enabling stations each year to supply additional information if they consider the composite week data they are submitting to be unrepresentative of overall performance during the year.

164. To underline our interest in children's programming aired on television (see Notice of Inquiry and Notice of Proposed Rulemaking in the matter of the ACT Petition, Docket 19142). We have added as Question 6 of the new Section IV–B of Form 303 the following (See Appendix E):

> "Attach as Exhibit—a brief description of programs, program segments or program series aired during the license period that were primarily directed to children twelve years old and under. Indicate the source, time and day of broadcast, duration and program type.

Filing Dates of the Annual Reporting Form

165. Dempsey and Koplovitz recommends that stations file on the first day of the sixth month preceding the anniversary of the expiration date, because data related to the expiration date would be substantially

less burdensome to compile and would provide more meaningful year-to-year comparisons. Storer contends that the first Annual Reporting Form after license renewal should cover the 12-month period beginning with the anniversary of the license period. NBC submits that the Commission should allow 2 or 3 months between announcement of the composite week and the filing of the Annual Reporting Form, and that at least 2 of these months should not be in July or August which are vacation months for both the Communications Bar and station personnel. Gill recommends no less than 60 days between announcement of composite week and filing date of the Annual Reporting Form, while CBS suggests at least 12 weeks.

166. Several parties argue that in the year in which a station files his renewal application (Form 303), the station should not be required to also file an Annual Reporting Form. NBC and Sonderling talk about the duplication that would result from two filings the same year, duplication that would violate Section 307(d) of the Act. CBS, Dempsey, & Koplovitz and Storer maintain that the third year report will be, in effect, included in the renewal application. On the other hand, BEST says Annual Reporting Forms should be required from stations filing renewal applications that year since failure to file the form in the renewal year would leave a gap in data. BEST notes that Questions 1 and 2 of the Annual Reporting Form are framed in terms of the preceding 12 months and Questions 3, 4, and 5 of the form are framed in terms of the composite week.

167. *Conclusions:* As we have previously indicated, we have decided that the only information which licensees will be required to send annually to Washington will be composite week data regarding programming of "News", "Public Affairs" and "Other". With respect to the matter of duplicative questions we note that no questions on the Annual Programming Report we are adopting duplicates or is duplicated by a Question in the new Section IV–B of Form 303 found in Appendix E.

168. As has also been previously indicated, we will require that the annual listings of significant problems and needs and programs aired to help meet those problems and needs be placed in the licensee's public inspection file each year on the anniversary date on which renewal applications are due. Upon renewal filing the three lists covering the current license period (including the list which is to be placed in the public inspection file when the renewal application is filed) will be forwarded to us. (See Question 1 in the new Section IV–B of Form 303 in Appendix E.) These lists will not duplicate information required by other questions in new Section IV–B.

General Comments Regarding the Proposed New Section IV of Form 303

169. Three parties argue that the Commission should delay revising the renewal form until Docket 19154 [10] is resolved. WGN says that it expects a new renewal form to result from Docket 19154, but that no

[10] Notice of Inquiry in the Matter of Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming from the Comparative Hearing Process (36 FR 3939).

useful purpose would be served by adopting a new form in the meantime. Storer contends that Dockets 19153 and 19154 must be considered together and their provisions coordinated. Storer is joined by NAB in maintaining that the *Citizens Communications Center* v. *FCC* (Case No. 24,471 decided June 11, 1971) makes any proposed revision of the renewal form inappropriate.

170. Storer also submits that broadcasters should aid the Commission in drafting any revision of the renewal form because only broadcasters experienced with the preparation of Commission applications have the expertise necessary to evaluate the full practicability, burden and effect to the FCC program forms.

171. *Conclusions:* After a detailed review of the filings in Docket 19154 at a special Commission meeting in March, 1972, and after hearing oral arguments en banc on Docket 19154 in May, 1972, we have concluded that we should proceed with terminating this proceeding (Docket 19153) even though the issues in Docket 19154 are still outstanding. We believe the new Section IV–B of Form 303 we have adopted today will provide the necessary information concerning the performance of television licensees, regardless of the final outcome of the attempt to establish criteria for defining "substantial" or "superior" service.

172. The new Section IV–B was, of course, subject to Office of Management and Budget (OMB) approval.[11] Broadcasters and other interested parties had an opportunity to comment on each individual question included in the new Section before a representative of OMB in open session. In addition, broadcasters and other interested parties were given more than five months to file comments in response to the Section IV–B proposed in the Notice, and these comments were carefully evaluated in considering revisions to that proposal and to the existing Section IV–B. We did not, therefore, consider it necessary to have any additional conversations with broadcasters regarding new Section IV–B prior to our submission of the new Section to OMB.

Comments Regarding Individual Questions in Proposed Section IV–B of Form 303—General Comments

173. Westinghouse and Mt. Mansfield state the Commission should delete those questions from proposed Section IV–B of Form 303 which are included on the Annual Reporting Form (e.g., Questions 1, 2, 8, 9a, 10A and 13 of proposed Section IV–B), because the information received would be redundant.

174. *Conclusions:* With the incorporation of the previously outlined changes to our proposals in the Notice, there are no longer any questions in the new Section IV–B which also appear in the Annual Programming Report. On September 26, 1973, the Commission was notified that OMB had approved both forms.

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[11] On July 11, 1973, representatives of OMB conducted a hearing open to the public on revised Section IV–B of Form 303 and the new Annual Programming Report (Form 303–A). On September 20, 1973, the Commission re-submitted both forms to OMB after reconsidering various matters raised at the July 11th meeting. The Commission was later notified that OMB had approved both forms.

Questions 1 and 2

175. Sonderling maintains that Questions 1 and 2 (concerning problems, needs and programs directed to them) should be deleted because they contain unnecessary information not directly material to considerations affecting granting or denial of the renewal and therefore violate Section 307(d) of the Act.

176. *Conclusions:* As has been indicated, licensees will be required to annually list significant local problems and needs of their service area and programs aired to help meet those problems and needs. These lists will be placed in the public inspection file each year on the anniversary date on which renewal applications are due, and upon filing of the renewal application, the three lists covering the current license period (including the list placed in the public inspection file upon submission of the renewal application) will be sent to the Commission. These lists will provide information which is directly material to considerations affecting the granting or denial of renewal.

Question 3

177. North Carolina and Dempsey and Koplovitz feel that Question 3 should be deleted. North Carolina argues that the question is inconsistent with the general spirit of the revisions in Docket 19153 because it emphasizes problems and programs rather than the method of ascertainment. The licensee is either aware or not aware of the needs of his community and does or does not program to meet them. How these needs were ascertained is, according to North Carolina, wholly irrelevant. Dempsey & Koplovitz contend that since the Commission has not stated any intention to make an evaluation of methods used, the question should be deleted as it incorporates vestigial remnants of a procedure which is no longer relevant.

178. Gill, NAB, Sonderling, Dempsey and Koplovitz, NOW, and Foley think the Commission should articulate standards expected of the applicant in answering Question 3, if Question 3 is retained. NAB submits that without the standards the question could be the starting point for a whole new series of interpretations as to the proper methods of ascertainment. Sonderling and NOW maintain the Commission must clarify whether or not licensees will be expected to conduct a formal survey of community leaders and representatives of the public. NOW suggests that such a survey should definitely be retained. Foley recommends the survey be retained and recommends that even if the Commission does not require an evaluation of the findings and of the relative importance of community problems, it should require some report and tabulation of the findings. Foley says his study of 1971 renewal application demonstrates most stations are not now including anything more than raw data.

179. On the other hand, Baldwin does not think the Commission should articulate standards expected of the applicant in answering Question 3. Baldwin submits research findings which indicate that the product of the various methods of studying communities varies in accordance with the nature of the community and the station. Baldwin believes the Commission should permit further experimentation by stations in arriving at appropriate means and recommends that the

Commission, without specifying guidelines, merely indicate that stations should be responsible for the validity of the methods used.

180. *Conclusions.* As indicated earlier, we have determined that commercial television licensees should be asked to represent in their renewal applications that they have followed the Commission's current guidelines in ascertaining the problems and needs of the station's service area and, upon filing the renewal application, have placed all relevant materials regarding their ascertainment procedures in the local public inspection file. (See Question 1 of new Section IV–B of Form 303 in Appendix E.) As we have also mentioned, the question of whether the existing ascertainment requirements (the Primer) should be revised is the subject of a recent Notice of Inquiry (Docket 19715).

181. As we have previously noted, the ascertainment reporting approach we have adopted today, including the annual listing of significant problems and needs and programs aired to help meet those problems and needs, emphasizes problems and needs and programs aired rather than methods of ascertainment of problems and needs. But it also recognizes that ascertainment is necessary and continuing ascertainment is to be encouraged; that guidelines for ascertainment are desirable; that members of the public have an interest in knowing how the licensee arrived at his conception of significant local problems and needs; and that the Commission might have cause to ask to see ascertainment support materials, either because a question regarding adequacy of ascertainment has arisen or because the Commission wants to reassure itself that (through examination of ascertainment support material of a random sample of stations) that proper ascertainment is taking place.

Questions 4 and 5

182. Deletion of Question 4 is suggested by Sonderling, CBS, WGN, Corinthian, Flower City, Dempsey & Koplovitz and BEST. These parties maintain that the exhibits would be entirely speculative and would furnish no useful information. With regard to Question 5, WGN thinks the question should be deleted while Corinthian says the question is unduly confined if it is meant to cover only new program series as opposed to new individual programs within established program series. Dempsey & Koplovitz and BEST recommend that the Commission require identification of past programs that will be continued or resumed. BEST says Question 5 fails to determine if existing programs are being dropped. Thus a station could list in answering Question 5 a replacement for an existing program which was listed in answering Question 2, and there is no way for the public or the Commission to know this is being done.

183. *Conclusions:* After careful re-evaluation of proposed Questions 4 and 5 and analysis of the answers we have received to Questions 1B and 1C in Part I of present Section IV–B of Form 303, we agree that asking the applicant to speculate on the problems and needs of the entire upcoming license period may result in information which is over-speculative in nature. But we believe the renewal applicant should be given an opportunity to include in his renewal application

an expression of intent in the immediate future to deal with a problem or need which was recently determined or called to his attention and was not included in his annual listing of problems and needs for the preceding twelve months. We therefore have decided in lieu of proposed Questions 4 and 5, to include as Question 2 of the new Section IV–B the following:

> **2. As a result of his recent ascertainment efforts, does the applicant anticipate that his next annual list of problems and needs of his service area and programs broadcast to help meet them (which will be the first list for the new license period) will contain specific problems and needs and/or programs or program series not included in his most recent list?**
>
> **☐ Yes ☐ No**
>
> **If "Yes", indicate in Exhibit No. — the specific problems and needs and/or programs or program series.**

Question 6

184. Deletion of Question 6 is urged by Sonderling, Flower City and Dempsey & Koplovitz. Sonderling says the station might change its methods of ascertainment and yet not serve the public. Flower City thinks the licensee will merely set forth the current Commission standard, which is now the Primer. Dempsey & Koplovitz maintain that the question will not furnish useful or meaningful information to the Commission, especially in view of the elimination of the Primer requirements.

185. *Conclusions:* In view of the previously described change in the method of ascertainment reporting from what was proposed in the Notice, and our decision to retain the Primer (pending the outcome of our formal Inquiry regarding ascertainment), we have decided to eliminate proposed Question 6 from the new Section IV–B.

Question 7

186. A number of filings discuss Question 7. NBC, CBS, Westinghouse and others talk about the burden the question would impose upon licensees. NBC and North Carolina suggest that if the complainant wants to bring his complaint to the Commission's attention he may do so. CBS maintains that the requirement would probably be meaningless to the renewal processes and would impinge upon important First Amendment, copyright, privacy, and other rights. CBS also believes the requirement to be inconsistent with Question 24 in the Primer which says that the evaluation of needs need not be included in the application, and inconsistent with *Sioux Empire Broadcasting* (16 FCC (2d) 995) where the Commission indicated that its review of the applicant's evaluation will be by reviewing the broadcast matter proposed, rather than intruding on the licensee's "thought process". Gill contends the Commission must provide a justification for the question and must provide guidelines regarding the extent of the answer. Dempsey & Koplovitz predict that without clear guidelines the Commission will either receive boilerplate answers or an overwhelming amount of details. McClatchy and Basic submit that a thorough description of complaint handling procedures should be all that is required.

187. Others feel Question 7 should be strengthened. Urban Law recommends the Commission add a requirement that the licensee sum-

marize and comment on complaints and suggestions received regarding the station's listing of problems and needs and programs devoted to them. BEST thinks Question 1D on the current form (asking the licensee to describe his procedures for considering and disposing of complaints and suggestions) should be added to proposed Question 7.

188. *Conclusions:* After careful consideration of the comments filed and reevaluation of the difficulties that would be encountered in providing general guidelines for licensees in answering the proposed Question 7, we have decided to eliminate the question from new Section IV–B. But we have retained as Question 3, the current Question 1D which asks applicants to describe present and proposed procedures for considering and disposing of complaints and suggestions from members of the public. Licensees will, of course, also be required under new Section 73.1202 of the Commission's Rules (see Appendix C) to retain a file of letters from members of the public, and we could always ask individual renewal applicants to provide specifics regarding that file should such a request be deemed necessary.

Questions 8, 9, and 10

189. Questions 8, 9 and 10 of the proposed new Section IV of Form 303 correspond to Questions 3, 4 and 5 of the proposed Annual Reporting Form. Comments regarding these questions have been discussed in paragraphs 131–135 which review comments regarding Questions 3, 4 and 5 of the Annual Reporting Form.

190. *Conclusions:* To eliminate redundancy of information, proposed Questions 8, 9 and 10 have been eliminated from new Section IV–B. The information that would have been obtained from these questions would have duplicated that obtained from the most recent Annual Programming Report.

Question 11

191. Revision of Question 11 is recommended in several filings. NBC says that the requirement to give the number of PSAs involving local organizations should be dropped because it is the substance of the PSA rather than the source that is of consequence. Others contend that the phrase "involving local organizations" is ambiguous. Dempsey wonders whether it is the location of offices or the degree of local activity that is important. Sonderling asks if PSAs on behalf of the local Army recruiting station or local Chapter of the Red Cross would be considered to involve local organizations. Flower City questions why PSAs of less worthy local organizations should be preferred over more significant PSAs for national causes.

192. Three parties comment on the time periods indicated in Question 11. BEST recommends that the time categories be refined to show the number of PSAs aired in each time segment listed on the licensee's rate card. Sonderling objects to breaking down PSAs into any time segments and questions whether there is any empirical evidence to indicate a difference between PSAs aired between 8 AM–11 PM and PSAs aired between 11 PM–8 AM. KRGV–TV says that stations cannot run all PSAs in prime time unless it's the annual United Fund Drive or something similar.

193. *Conclusions:* Proposed Question 11 has been included with some revisions as Question 4 in new Section IV–B found in Appendix E. We believe the new question is a considerable improvement over Question 9 of current Section IV–B which merely asks for the total number of PSAs during the composite week. Examination of composite week logs furnished by renewal applicants suggests that similarities in the total number of PSAs for the week does not necessarily mean similarities in the nature of the PSAs or in the time of day in which they were aired. We do not mean to imply that all PSAs should be aired in prime time or between 8 AM–11 PM or that PSAs benefiting local organizations are necessarily to be preferred over PSAs that do not benefit local organizations. But we believe we should continue to solicit information regarding PSAs and the proposed Question is to be preferred as providing more information than the current Question.

194. The revisions to new Question 4 will hopefully alleviate several potential problems raised at the July 11th OMB meeting. The question now makes it clear that the primary beneficiary of the PSA is determinative as to whether or not the PSA is local rather than the location of either the producer of the announcement or the personality who may appear on the screen. The question now also recognizes (by including a third "mixed" category in part B and adding the phrase "in the licensee's judgment") that while some PSAs are clearly designed to benefit the activities of local organizations (e.g. a PSA promoting a local church function) and others are clearly designed to benefit the activities of non-local organizations (e.g. a PSA soliciting funds for Radio Free Europe or Project Hope), still other PSAs are difficult to categorize and there could be honest differences of opinions as to their proper categorization. It should be re-emphasized, however, that in soliciting information regarding programming of PSAs the Commission has never, and is not now suggesting that there is a certain number of PSAs that should be aired each week or that a certain percentage of PSAs should be primarily designed to benefit organizations or organizational units in the local service area.

Question 12

195. ACT recommends that the Commission require the licensee in Question 12 to state the total number of commercials and the total amount of time devoted to commercial content during the children's programming aired during the most recent composite week. ACT would, as in the case of its recommended questions to be added to the Annual Reporting Form, be willing to accept the Commission's definition of children's programming included in its Notice of Inquiry and Proposed Rulemaking regarding the ACT petition. (Docket 19142).

196. *Conclusion:* As indicated in paragraph 164, Question 6 has been added to new Section IV–B to provide general information regarding programming aired by the renewal applicant during the current license period that was primarily directed to children twelve years old and under. We do not think, however, that Question 12 should be amended as ACT suggests prior to the resolution of the issues in the Notice of Inquiry and Notice of Proposed Rulemaking regarding children's programming (Docket 19142). One change that has been incorporated in revised Section IV–B in order to obtain additional information regard-

ing broadcasting of commercial matter (the subject of proposed Question 12) is the addition of questions concerning past and proposed programming of commercials between 6 PM–11 PM. (See Questions 11 and 14 of new Section IV–B of Form 303 in Appendix E.)

Question 13

197. Proposed Question 13 of new Section IV–B of Form 303 corresponds to proposed Question 6 of the Annual Reporting Form. Comments and Conclusions regarding this Question are discussed in paragraphs 156–160.

Objections to Deletion of Questions to Present Section IV–B of Form 303

198. BEST argues that even though the Commission is not using certain questions in the present Section IV–B in determining if the public interest will be served by granting renewal, these questions should be retained because they provide information which could be of significant value to citizen groups. BEST objects to the elimination of Questions 10C and 19C of current Section IV–B, claiming they are the only two questions that relate to promise vs. performance. Question 10C of current Section IV–B provides the applicant with the opportunity to explain any substantial variations between the programming representations made in the last renewal application and the programming practices revealed in the current application, and question 19C of the current form asks the applicant to explain any substantial variations between the commercial representations made in his last renewal application and his commercial practices during the composite week.

199. Sonderling asks why the Commission dropped the questions in current Section IV–B regarding news staff, news facilities and overall staff (Questions 6, 14 and 25 of the current form). Sonderling thinks all three questions should be retained. BEST wonders why the questions regarding the amount of news devoted to and planned to be devoted to local and regional news were dropped, since the information is vital to assuring that local service really is local.

200. BEST maintains that most of Part VI of current Section IV–B should be retained in new Section IV–B. BEST states that giving the names and positions of the people who determine the day-to-day programming of the station allows the public to know who has responsibility for various decisions, and *Question 22* (asking the applicant to summarize his programming and advertising standards) provides information which is a matter of increasing concern to the public. BEST contends that *Question 23* of current Section IV–B (asking the applicant to state the methods by which he keeps informed of the requirements of the Act and the Commission's Rules and how he keeps his employees informed of same) is a relevant inquiry, and *Question 26* (asking the applicant to give examples to illustrate a policy of broadcasting programs to meet needs, regardless of whether or not commercial sponsorship is available or appropriate, and a policy of pre-empting time to present special programs) is clearly a question which reveals performance in the public interest. Sonderling concurs in BEST's requests that Question 22 be retained in new Section IV–B.

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201. BEST notes that Questions 7 and 14 of current Section IV–B asking the licensee to describe his present and proposed policies with respect to making time available for the discussion of public issues and his method of selecting subjects and participants were also dropped. BEST maintains that both on principles of law and on practicabilities of assuring citizen participation, the Commission should be requiring more information, not less, and in light of the increasing focus on the problem of access, deletion of the questions seems ill-advised.

202. *Conclusions:* We agree with BEST's contention that new Section IV–B should retain questions permitting the licensee to explain any substantial variations that may exist between representations made in his last renewal application regarding programming or commercial practices, and the programming or commercial practices reflected in the current renewal application and the Annual Reporting Forms covering the current license period. For that reason we have included Questions 7C and 12C in new Section IV–B to correspond with Questions 10C and 19C of the current Section IV–B.

203. We have not, however, retained any of the other questions which BEST and Sonderling suggest be retained because we have not always used them in making our public interest determination regarding the renewal applicant and thus requiring them might, in some instances, be in violation of Section 307(d) of the Communications Act. Questions on the current form regarding news staff, for example, have sometimes provided unreliable information due to the variance in the definitions of news staff from station to station. Estimate of percentages of news coverage devoted to local and regional news have sometimes been unreliable for similar reasons. Moreover, we believe attempts to ensure that local service is in fact local will be far more realizable through analysis of the annual listing of programs and program segments aired to help meet the significant local problems and needs of the service area.

204. Experience with open ended questions regarding policy of preemptions, methods of keeping informed of Commission Rules, policies regarding discussion of controversial issues, and programming and advertising standards, has demonstrated that without adequate guidelines for answering the question and without criteria as to how the answers are to be evaluated by the Commission staff, these answers cannot always be used in our public interest determination. And experience suggests that such guidelines and criteria cannot always be formulated to our satisfaction. Thus we will not retain these open ended questions in new Section IV–B.[12] If, however, there is a question concerning an individual renewal applicant's policies regarding discussion of controversial issues, programming standards, methods of keeping informed of Commission regulations, etc., we will ask that applicant to respond to the specific question that may have arisen.

[12] In the Notice we indicated we would consider a revised renewal form for commercial radio licensees. At that time we will consider whether we should delete some of the open ended questions in Section IV–A of Form 303 that correspond with those open ended questions in current Section IV–B which are now being deleted.

Recommended Additional Questions in New Section IV–B of Form 303

205. Recommendations for inclusion of additional questions in new Section IV–B were received from ACT, BEST and United Church. As discussed in paragraph 161, ACT asks that a series of questions regarding children's programming be added to both the Annual Reporting Form and Section IV–B. BEST recommends a question be added which relates to the present methods of ascertainment, because proposed Question 3 relates to the past and proposed Question 6 to the future. United Church recommends that a question be added to give licensees the opportunity to list entertainment programs they consider to be of special value. United Church notes that *Red Lion* speaks of the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences. The proposed form limits the data to social and political material. The new question would permit the licensee to distinguish the premiere of a new ballet or a children's program of recognized worth, from a cartoon or a rerun of a situation comedy.

206. *Conclusions:* As indicated in paragraph 164, we have included a question in new Section IV–B concerning programming primarily directed towards children twelve years old and under. (See Question 6 in Appendix E.) In response to the recommendation of United Church that renewal applicants be given the opportunity to list entertainment programs they consider to be of special value, Question 7B of new Section IV–B has been re-written to invite those licensees who wish to provide additional information to accurately and fairly present their program service, to list entertainment programs they consider to be of special merit.

The Use of Programming Statistics in the Notice in Processing Renewal Applications and the Proposed Ranking Procedure

207. The Commission indicated that the nationwide annual programming statistics derived from the Annual Reporting Form would be used to compile a nationwide data base. When the data base became available, the Commission would rank each commercial television station within a yet to be determined grouping in each critical programming category, including "News," "Public Affairs," "Other" and "Local." The staff would then be instructed to closely scrutinize the renewal applications of those stations whose ranking fell below an appropriate level (as for example 10%) and make a summary report of those applications to the Commission. The Commission emphasized that it was not to be implied that all such applicants would be designated for hearing or even subjected to further inquiry. Rather, the purpose of the process was to ensure close scrutiny of all such applicants in order to delineate those whose performance was of such a borderline nature as to warrant inquiry and further showing. The grouping of stations and the levels below which stations would receive close scrutiny would, when determined by the Commission, be made a matter of public record. The Commission suggested that groupings might be determined by market, by revenues or by a combination of factors, and specifically asked for comments regarding appropriate groupings.

208. Comments were received regarding both the refinements in statistics that will result from the new questions in Section IV–B and the Annual Reporting Forms, and the Commission's intention to group stations and focus particular attention on those applicants below a certain cut off point. BEST and United Church support the changes with certain reservations, and submit that the separation of local programming into "News," "Public Affairs" and "Other" during 6–11 PM is especially important. In discussing the grouping and cutoff point approach, BEST maintains that while it is reasonable to require an exhaustive inquiry for any station below the appropriate level, all stations should at least receive normal staff review at renewal time and there should be no presumption that licensees are serving the public interest simply because they are above the cut off point. Moreover, the extent of community dialogue, hiring policies, etc., should remain subject to challenge by a petition to deny. United Church supports refining statistics by time periods and annual ranking, but it cautions the Commission that a purely quantitative approach to evaluation of program service may not present the complete picture.

209. Various parties fear that the Commission's proposed approach unduly emphasizes quantity vs. quality. Gill, for example, says there is no easy way to evaluate programming and any quantitative approach can only delude people. NAB says the Commission's approach ignores the qualitative aspects of programming and thoroughly injects the Commission into areas of programming control precluded by Section 326 of the Act. Corinthian and Storer both cite *Evening Star Broadcasting Co.* (27 FCC (2d) 316) in which the Commission stated that it has never made a public interest determination on the basis of comparative rankings and indicated such determination must be made on the basis of the licensee's individual performance, regardless of program percentages compiled by other local stations. AWRT claims that statistical measurement will necessarily be distorted if it does not deal generally with entertainment programming in determining how responsive a television station's programming is to community needs.

210. The Commission specifically asked for comments regarding the proper grouping of stations in any ranking procedure. Nebraska maintains that there is no way of grouping stations in an intelligent and equitable manner. KUTV says that regardless of how sensitive the grouping criteria are, it is inevitable that they will be arbitrary, and to a greater or lesser extent, chickens will be compared to geese and horses to mules. BEST contends it can make no meaningful suggestions until information regarding the financial structure of the industry is available to it. BEST argues that groupings must, at least in part, reflect revenues and profitability.

211. *Conclusions.* As has been indicated in paragraph 121, we are not adopting a ranking procedure such as that proposed in the Notice which would automatically determine which renewal applications would continue to be processed and approved solely by the staff under delegated authority and which would only be approved by the Commission. We recognize, however, that on occasion demands of staff

and resources may well prevent the Broadcast Bureau from devoting all the attention it would like to devote to each renewal application in a given renewal group. In such circumstances the annual statistical profiles of individual stations in the renewal group used in conjunction with statistics indicating the programming of all other similar stations during the identical period might well be used by the staff in rapidly selecting those applications which would receive the greatest amount of time and attention.

The Length of Exhibits

212. In our discussions regarding the adoption of the new Section IV–B of Form 303 we have noted with some concern the continuing increase in the length of Exhibits filed with the Commission in conjunction with the current renewal form. We feel it would be desirable to reverse this trend, but we do not want to inhibit licensees from providing the public in their service area with more elaborate details regarding their programming efforts than we may deem necessary to make the requisite public interest finding. Such elaboration might promote the continuing dialogue between licensee and citizen which we have mentioned throughout this Report and Order. For this reason we have decided to impose a page limitation on the Exhibits submitted to the Commission, but to permit licensees (at their option) to supplement these Exhibits by placing in their public inspection file additional material, identified as a continuation of the information submitted to the Commission and subject to Commission inspection. Instructions to this effect will be included at the beginning of Section IV–B of Form 303 (See the note at the top of the first page of Appendix E of this Report and Order.) The instructions will also make it clear that should the Commission be unable to make the requisite public interest finding on the basis of Exhibits initially submitted by a licensee, the licensee in question would be permitted to supplement his initial showing to the Commission by submitting any additional material which may be relevant, including (but not necessarily limited to) the additional material which may have already been placed in the public file.

Authority and Orders

213. The authority for the adoption of the amendments contained in the Appendices hereto is set forth in Sections 4(i) and (j), 303, 307, 308, 309, 311(a), 315(a), and 403 of the Communications Act of 1934, as amended.

214. Accordingly, effective January 1, 1974, IT IS ORDERED, That Parts 1 and 73 of the Commission's Rules and Regulations are amended as set forth in Appendices B and C hereto. Compliance with the rules is required in accordance with the following schedule:

§ 1.526(a)(6) and (7)—January 1, 1974
§ 1.526(a)(8)—upon the first filing of new Form 303–A
§ 1.526(a)(9)—on the month and day in 1974 which corresponds to the month and day in 1974–1976 on which the station's renewal application is due to be filed

§ 1.539(a) and § 1.580—applies to applications for renewal of licenses which expire on December 1, 1974, or thereafter

§ 73.1202—January 1, 1974, except that prior to the compliance date of § 1.526(a)(9), television stations shall not be required to include in their notices information other than that which is required to be included by radio stations, and except that applicants for renewal of licenses which expire on February 1, April 1, and June 1, 1974, shall begin making the appropriate announcements required by § 73.1202(e) beginning on the second day of the calendar month prior to their expiration, and applicants for renewal of licenses which expire on August 1, 1974, shall continue to broadcast every fifteenth day the notice required by § 73.1202 until such time as notices required by current § 1.580 are broadcast and will begin broadcasting the notice required by § 73.1202 (e) on July 2, 1974.

215. IT IS FURTHER ORDERED, That Form 303–A, the Annual Programming Report, is adopted as set forth in Appendix D hereto and that Form 303 is amended as set forth in Appendix E, and that both forms will be sent to licensees at dates to be announced. In the interim time period, current Section IV–B of Form 303 will continue to be used by all applicants for renewal of commercial television licenses. A series of public notices will be issued at appropriate times to remind licensees and the public of approaching dates on which specific rules mentioned in paragraph 214 above will take effect. Petitions for reconsideration of this Final Report and Order may be filed within 30 days after its publication in the Federal Register, i.e., by November 16, 1973. IT IS FURTHER ORDERED, That this proceeding is TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS, *Acting Secretary.*

APPENDIX A

PARTIES FILING COMMENTS

(*Indicates Reply Comments Also Filed)

(**Indicates Only Reply Comments Filed)

Action for Children's Television (ACT)
American Broadcasting Company (ABC)
American Civil Liberties Union (ACLU)
American Women in Radio and Television, Inc. (AWRT)
Anna Broadcasting Company, Inc. (WRAJ)
Basic Communications, Inc., *et al.* (Basic)
- Basic Communications, Inc.
- Belton Broadcasters, Inc.
- BFR Broadcasting
- Big C Broadcasting Corporation
- Broadcast Consultants Corporation
- Cox Broadcasting Corporation
- Daily Telegraph Printing Co.
- Guy Gannett Broadcasting Services
- Hearst Radio, Inc.
- Mid-America Television Company
- Midcontinent Broadcasting Co.
- Mout Hood Radio and Television Broadcasting Corporation
- Mullins Broadcasting Co.

Multimedia, Inc.
Newhouse Broadcasting Corporation
Northeastern Indiana Radio, Inc.
Norhwestern Publishing Co. Inc.
Palmer Broadcasting Co.
Quincy Broadcasting Co.
Radio Medford, Inc.
Radio Redding, Inc.
Rock Island Broadcasting Co.
Scranton Broadcasters, Inc.
Southern Wisconsin Radio, Inc.
Stauffer Publications
Truth Publishing Co.
Truth Radio Corporation
Turner Broadcasting Corporation
Unicom, Inc.
United Television, Inc.
Walter-Weeks Broadcasting, Inc.
WBNS–TV, Inc.
WCSC, Inc.
West Bend Broadcasting Co.
WHEC, Inc.
WHP, Inc.
The WHYN Stations, Corporation
WJAC, Incorporated
WLAC–TV, Inc.
WLOL–FM, Corporation
WOC Broadcasting Co.
WUNI, Inc.

Black Efforts for Soul in Television* (BEST)
Carter Publications, Inc. and Gulf Coast Broadcasting Company (Carter)
The Chesapeake Broadcasting Corporation (WASA)
Cohn & Marks, Law Offices of (Cohn & Marks)
Columbia Broadcasting System, Inc. (CBS)
Community Broadcasting Company (KRSN)
The Corinthian Stations and the Orion Stations (Corinthian)
Dempsey & Koplovitz, Law Offices of (Dempsey & Koplovitz)
Fetzer Television Corporation, *et al.* (Fetzer)
Fetzer Television Corporation
Cornhusker Television Corporation
Fetzer Broadcasting Company
Medallion Broadcasters, Inc.
Flower City Television Corporation, *et al.* (Flower City)
Flower City Television Corporation
Lee Enterprises, Inc.
Time-Life Broadcast, Inc.
WDSU–TV, Inc.
WKY Television System, Inc.
Professor Joseph M. Foley** (Foley)
Robert S. Gelman (Gelman)
General Electric Broadcasting Co., Inc. (GE)
Gill Industries, *et al.* (Gill)
Gill Industries
Leake TV, Inc.
Pikes Peak Brodcasting Co.
Screen Gems Stations, Inc.
WAPA–TV Broadcasting Corporation
WBEN, Inc.
Heart O'Wisconsin Broadcasters, Inc. (Heart O'Wisconsin)
International Broadcasting Corp. and Southwestern Broadcasting Corp. (International)

KAKC, AM and FM, *et al.* (KAKC)
- KAKC, AM and FM, Tulsa, Okla.
- KFUN, Las Vegas, N.M.
- WIOK, Normal, Ill.
- WCCW, Traverse, Mich.
- WBMJ, San Juan, P.R.
- KVEC, San Luis Obispo, Calif.
- KMBY, Monterey, Calif.
- WBIP, Booneville, Miss.
- KBOX, AM and FM, Dallas, Texas
- WONE, AM and FM, Dayton, Ohio
- WLTN, Littleton, N.H.
- KFAB, AM and FM, Omaha, Nebr.
- WEKR, Fayetteville, Tenn.
- WWCA, Gary, Ind.
- WLOI, AM and FM, LaPorte, Ind.
- WJOR, outh Haven, Mich.
- WTUP, Tupelo, Miss.
- KKUA, Honolulu, Hawaii
- WOKJ, Jackson, Miss.
- WBET, AM and FM, Brockton, Mass.
- KVGB, Great Bend, Kans.
- WRAG, AM and FM, Carrollton, Ala.
- WMAG, Forest, Miss.
- WRUS, AM and FM, Russellville, Ky.
- WKIZ, WFYN-FM, Key West, Fla.
- KRUS, AM and FM, Suston, La.
- WXLI, AM and FM, Dublin, Georgia
- KGMS, Sacramento, Calif.
- WFDF, Flint, Mich.
- KMMJ, Grand Island, Nebr.
- KKIT, Taos, N.M.
- KXXX, AM and FM, Colby, Kans.
- WHBO, Tampa, Fla.
- WOPI, AM and FM, Bristol, Tenn.
- WVOJ, Jacksonville, Fla.
- WMAD, AM and FM, Madison, Wis.
- KORS, AM and FM, Minneapolis, Minn.
- WCMB, WSFM (FM), Harrisburg, Pa.
- WMEN, Baton Rouge, La.
- WKAU, AM and FM, Kaukauna, Wis.
- WGUS, North Augusta, S.C.
- WPEA, Pensacola, Fla.
- WSHO, New Orleans, La.
- WFHR, AM and FM, Wisc. Rapids, Wisc.
- WTUG, Tuscaloosa, Ala.
- WTMT, Louisville, Ky.
- WGCM, WTAM(FM), Gulfport, Miss.
- WBOP, AM and FM, Pensacola, Fla.
- KRAK, Sacramento, Calif.
- KFAX, San Francisco, Calif.
- WHIE, Griffin, Ga.
- WENO, Madison, Tenn.
- WSAU, AM and FM, Wausau, Wisc.

Kansas Association of Broadcasters (Kansas)
KBMN Radio (KBMN)
KGUD, Inc. (KGUD)
KIIX
KRGV-TV
KUTV, Inc. (KUTV)
KWNA Radio (KWNA)
KWRO, Inc. (KWRO)
Lebanon Broadcasting Company (Lebanon)
Louisiana Association of Broadcasters (Louisiana)
McClatchy Newspapers (McClatchy)
Metromedia, Inc. (Metromedia)
Mt. Mansfield Television, Inc. (Mt. Mansfield)
National Association of Broadcasters (NAB)
National Association of Educational Broadcasters** (NAEB)
National Broadcasting Company, Inc. (NBC)
National Organization for Women (NOW)
National Urban League (Urban League)
Norbertine Fathers (Norbertine)
North Carolina Association of Broadcasters, Inc. (North Carolina)
Paducah Newspapers, Inc. (Paducah)
Plough Broadcasting Company, Inc. (Plough)
Radio Station WGBF, Inc. (WGBF)
Radio Station WHAR (WHAR)
Ranchland Broadcasting Company, Inc. (Ranchland)
Sonderling Broadcasting Corporation, *et al.** (Sonderling)
- Sonderling Broadcasting Corporation
- Nationwide Communications, Inc.
- Midwest Radio-Television, Inc.
- The Baltimore Radio Show, Inc.
- North Alabama Broadcasters, Inc.
- Gross Telecasting, Inc.
- Gross Telecasting of Wisconsin, Inc.

Eagle Broadcasting Corporation
Key Television, Inc.
Triangle Broadcasting Corp.
Student Task Force Against Telecommunication Information Concealment (STATIC)
Storer Broadcasting Company (Storer)
Stuart Broadcasting Company (Stuart)
Television Station WJBF–TV (WJBF–TV)
Office of Communication of the United Church of Christ (United Church)
The Urban Law Insitute of Antioch College (Urban Law)
Westinghouse Broadcasting Company, Inc. (Westinghouse)
WGAL Television, Inc. *et al.* (WGAL)
WGAL Television, Inc.
WGAL, Inc.
Associated Broadcasters, Inc.
Delmarva Broadcasting Co.
WGN Continental Broadcasting Company (WGN)
WHAR Radio (WHAR)
Wilkes Broadcasting Company, *et al.* (Wilkes)
Wilkes Broadcasting Company
Sentinel Broadcasting Company
WDSL, Inc.
WRVB–FM
WSAU–TV, *et al.* (WSAU–TV)
WSAU–TV, Wausau, Wisc.
KCAU–TV, Sioux City, Iowa
WTOK–TV, Meridian, Miss.
KMTV, Omaha, Nebraska
KGUN–Tucson, Ariz.
KFIZ–TV, Fond du La, Wisc.
WKRG–TV, Mobile, Ala.
WAFB–TV, Baton Rouge, La.
WTRF–TV, Wheeling, W. Va.
WKNX–TV, Saginaw, Mich.
KJEO–TV, Fresno, Calif.
WRAU–TV, Peoria, Ill.
WMTV, Madison, Wisc.
WAKR–TV, Akron, Ohio
KMEX–TV, San Antonio, Tex.
KMEX–TV, Los Angeles, Calif.
WXTV, Paterson, N.J.
WLTV, Miami, Fla.
WICS–WICD, Springfield-Champaign, Ill.
WTVO, Rockford, Ill.
WHNB–TV, New Britain, Conn.
WSIL–TV, Harrisburg, Ill.
WDAM–TV, Laurel, Miss.
WCFT–TV, Tuscaloosa, Ala.
KZTV, Corpus Christi, Tex.
WCTV, Tallahassee, Fla.
KOAA–TV, Pueblo, Colo.
KTSB–TV, Topeka, Kansas
WUAB, Inc. (WUAB)

APPENDIX B

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 1—Practice and Procedure

§ 1.516 [Amended]

1. In § 1.516(e)(1), the first proviso is amended by changing "60th" to "90th" where it appears.

2. In § 1.526, the introductory text of paragraph (a) is amended and subparagraphs (6), (7), (8), and (9) are added, and the introductory text of paragraph (e) is amended to read as follows:

§ 1.526 Records to be maintained locally for public inspection by applicants, permittees, and licensees.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraph (1) of this paragraph, every permittee or licensee of a station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraphs (1), (2), (3), (4), (5), (6), and (7) of this paragraph, and every permittee or licensee of a commercial television station shall maintain for public inspection a file for such station containing the material in subparagraphs (8) and (9) of this paragraph: *Provided, however,* That the foregoing requirements shall not apply to applicants for or permittees or licensees of television broadcast translator stations, FM broadcast translator stations, or FM broadcast booster stations. The material to be contained in the file is as follows:

* * * * * * *

(6) The Public and Broadcasting Procedural Manual (see FCC 72-829, 37 FR 20510, Sept. 29, 1972).

(7) Letters received from members of the public as are required to be retained by § 73.1202.

(8) A copy of the Annual Programming Report (Form 303-A) containing programming information for a composite week selected by the Commission and the licensee's or permittee's program logs for that composite week.

(9) A copy of the current annual listing of what the licensee or permittee believes to have been significant problems and needs of the area served by the station during the preceding twelve months. No more than ten problems and needs are to be included in the listing. Opposite each problem or need listed, licensees or permittees shall indicate and briefly describe typical and illustrative programs or program segments, excluding news inserts (the daily or ordinary news coverage of breaking newsworthy events), broadcast during the preceding twelve months designed to help meet that problem or need. Such description shall include source and time of broadcast. Licensees or permittees are to place these listings in the public file each year on the anniversary date on which renewal applications are due, *Provided, however:* That upon filing a renewal application, the listings for the current license period, including the most recent listing which shall be simultaneously placed in the local file, shall be forwarded to the Commission as a part of the renewal application. The listings are not to exceed five pages but may be supplemented by additional material placed in the public inspection file, identified as a continuation of the information submitted to the Commission and subject to Commission inspection.

* * * * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the periods specified in §§ 73.120(d), 73.290(d), 73.590(d), and 73.657(d) of this chapter (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in § 73.1202 (3 years). The records specified in paragraph (a)(1), (2), (3), (5), (6), (7), (8), and (9) of this section shall be retained as follows:

* * * * * * *

3. Section 1.539(a) is amended to read as follows:

§ 1.539 Application for renewal of license.

(a) Unless otherwise directed by the Commission, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed, except that applications for renewal of license of an experimental or developmental broadcast station shall be filed not later than the first day

of the second full calendar month prior to the expiration date of the license sought to be renewed. If any deadline prescribed in this paragraph falls on a nonbusiness day, the cutoff shall be the close of business of the first full business day thereafter.

* * * * * * *

4. Section 1.580 is amended in paragraph (c) before the first colon of the introductory paragraph; in paragraph (d); in the first sentence of paragraph (i) wherein a colon is substituted for the period and a third proviso is added; in paragraph (j) and in paragraph (m). The amended text reads as follows:

§ 1.580 Local notice of the filing of broadcast applications, and timely filing of petitions to deny them.

* * * * * * *

(c) Except as otherwise provided in paragraph (e) of this section, an applicant filing any application or an amendment thereto which is subject to the provision of this section (except for applications for renewal of an operating broadcast station, applications for stations in the international broadcast service, television translator stations, FM translator stations, and FM booster stations) shall cause to be published a notice of such filing as follows: * * *

(d) If the application seeks modification, assignment or transfer of an operating broadcast station (except for applications for stations in the international broadcast service, television translator stations, FM translator stations and FM booster stations), or is an amendment of an application for renewal of a broadcast station license, the applicant shall, in addition to publishing a notice of such filing as provided in paragraph (c) of this section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the tendering for filing of such application, or in the second week immediately following notification by the Commission pursuant to §§ 1.571, 1.572, 1.573, or 1.578. In the case of applications for the renewal of broadcast station licenses, but not amendment thereof, during the period and beginning on the first day of the sixth full calendar month prior to the expiration of the license to the date on which the application is filed, all applicants shall broadcast the following announcement every fifteenth day (stations broadcasting primarily in a foreign language should broadcast the announcements in that language):

On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.

Our license will expire on (*date*). We must file an application for license renewal with the FCC (*date four calendar months prior to expiration date*). When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last three years and projections of our programming during the next three years.

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the Commission by (*date first day of last full calendar month prior to the month of expiration*).

Further information concerning the Commission's broadcast license renewal process is available at (*address of location of the station's public inspection file*) or may be obtained from the FCC, Washington, D.C., 20554.

(1) This announcement shall be made during the following time periods:

(i) For commercial television stations—at least two of the required announcements between 6 PM and 11 PM (5 PM and 10 PM Central and Mountain Time).

(ii) For commercial radio stations—at least two of the required announcements between 7 AM and 9 AM and/or 4 PM and 6 PM. For stations which neither operate between 7 AM and 9 AM nor between 4 PM and 6 PM, at

least two of the required announcements shall be made during the first two hours of broadcast operation.

(iii) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.

(2) During the period beginning on the date in which the renewal application is filed to the first day of the last full calendar month prior to the expiration of the license, all applicants for the renewal of broadcast station licenses shall broadcast the following announcement every fifteenth day (stations broadcasting primarily in a foreign language should broadcast the announcements in that language):

> On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.
>
> Our license will expire on (*date of expiration*). We have filed an application for license renewal with the FCC.
>
> A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last three years and projections of our programming during the next three years.
>
> Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the Commission by (*date first day of last full calendar month prior to the month of expiration*).
>
> Further information concerning the Commission's broadcast license renewal process is available at (*address of location of station's public inspection file*) or may be obtained from the FCC, Washington, D.C., 20554.

(3) This announcement shall be made during the following time periods:

(i) For commercial television stations—at least three of the required announcements between 6 PM and 11 PM (5 PM to 10 PM Central and Mountain Time), at least one announcement between 9 AM and 1 PM, at least one announcement between 1 PM and 5 PM, and at least one announcement between 5 PM and 7 PM.

(ii) For commercial radio stations—at least three of the required announcements between 7 AM and 9 AM and/or 4 PM and 6 PM, at least one announcement between 9 AM and 12 PM, at least one announcement between 12 PM and 4 PM, and at least one announcement between 7 PM and midnight. For stations which neither operate between 7 AM and 9 AM nor between 4 PM and 6 PM, at least three of the required announcements shall be made during the first two hours of broadcast operation.

(iii) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.

(4) In the case of television broadcast stations and noncommercial educational television stations, signboards with the licensee's address and the Commission's Washington address shall be shown when the addresses are being given by the announcer.

(5) During the period beginning on the first day of the sixth full calendar month prior to the expiration of the broadcast station license up to the first day of the last full calendar month prior to expiration, the public notice requirements under § 73.1202 of this chapter do not apply.

* * * * * * * *

(i) * * * *And provided further*, That requests for extension of time to file petitions to deny applications for renewal of license will not be granted unless all parties concerned, including the renewal applicant, consent to such requests, or unless a compelling showing can be made that unusual circumstances make the filing of a timely petition impossible and the granting of an extension warranted.

(j) The applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal

knowledge thereof. The times for filing such oppositions and replies shall be those provided in § 1.45 except that as to a petition to deny an application for renewal of license, an opposition thereto may be filed within 30 days after the petition to deny is filed, and the party that filed the petition to deny may reply to the opposition within 20 days after the opposition is due or within 20 days after the opposition is filed, whichever is longer.

* * * * * * *

(m) Paragraphs (a) through (k) of this section apply, without change, to major amendments to license renewal applications, to which § 1.578(a) applies.

(Sec. 5(a), 74 Stat. 892; 47 U.S.C. 311)

APPENDIX C

Part 73, Subpart H, of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 73—Radio Broadcast Services

Section 73.1202 is added new to read as follows:

§ 73.1202 Public notice of licensee obligations.

(a) Each licensee of a commercial AM, FM or television station except international or television translator stations, shall make an announcement informing the public of the licensee's obligation to the public and of the appropriate method for individuals to express their opinions of the station's operation. Such announcements shall be aired at least once every fifteenth day throughout the license period except during the period beginning on the first day of the sixth full calendar month prior to expiration and ending on the first day of the last full calendar month prior to expiration, during which time the renewal application notices in § 1.580(d) of this chapter shall be broadcast. Such announcements shall be aired during the following two-hour time periods in the following rotating order:

(1) For commercial television stations, the announcements shall alternate between the 6 PM to 11 PM time period (5 PM to 10 PM Central and Mountain Time) and the following two-hour time periods in rotating order: 7 AM to 9 AM, 9 AM to 11 AM, 11 AM to 1 PM, 1 PM to 3 PM, 3 PM to 5 PM, 5 PM to 7 PM, and 10 PM to 12 AM.

(2) For commercial radio stations, the announcements shall alternate between the 7 AM to 9 AM and/or 4 PM to 6 PM time periods and the following two-hour time periods in rotating order: 5 AM to 7 AM, 9 AM to 11 AM, 11 AM to 1 PM, 1 PM to 3 PM, 5 PM to 7 PM, 7 PM to 9 PM, 9 PM to 11 PM, 11 PM to 1 AM. For stations which neither operate between 7 AM to 9 AM nor between 4 PM to 6 PM, the announcements shall alternate between the first two hours of broadcast operation and every other two-hour time period during the broadcast day in rotating order, beginning with sign on.

(b) If an emergency arises which prevents the airing of the announcement at the scheduled time, the announcement shall be aired on the day following the ending of such emergency at the identical time or during the time period which the rotating order specified above requires.

(c) In the case of commercial television broadcast stations, a signboard with the licensee's address for receiving comments shall be shown when the announcer is giving that address.

(d) The notice shall contain the following information (stations broadcasting primarily in a foreign language should broadcast the announcements in that language):

(1) *For commercial radio stations:*

(i) The station's call letters.

(ii) A statement that on (*give date of last renewal grant*) the station was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.

(iii) A statement that the broadcaster is obligated to make a continuing, diligent effort to determine the significant problems and needs of his service area and to provide programming to help meet those problems and needs.

(iv) A statement that the station invites any specific suggestions or comments listeners may have regarding station operation and the licensee's programming efforts.

(v) The appropriate name and address to which comments should be mailed.

(vi) A statement that unless otherwise requested, all letters received will be made available for public inspection during regular business hours.

(2) *For commercial television stations:*

(i) The station's call letters.

(ii) A statement that on (*give date of last renewal grant*) the station was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.

(iii) A statement that (*give the anniversary date of the deadline for filing of the renewal application*) the station places in its public inspection file a list of what the licensee considered to have been some of the significant problems and needs of his service area during the preceding twelve months and some of the programs the station aired to help meet those problems and needs.

(iv) A statement that the station invites any specific suggestions or comments viewers may have regarding station operation and the licensee's programming efforts.

(v) The appropriate name and address to which comments should be mailed.

(vi) A statement that unless otherwise requested, all letters received will be available for public inspection during regular business hours.

(e) During the period beginning the second day of the last full calendar month prior to expiration of the license and until the date of license renewal, stations shall broadcast the appropriate announcement herein except for the mention of the date of the last renewal grant. Commencing on the fifteenth day following the date of renewal, the regular announcement shall be resumed and shall be broadcast every fifteenth day thereafter.

(f) All written comments and suggestions received from members of the public concerning operation of the station shall be maintained in a local file available for inspection by the public, except when the person making the comment or suggestion has specifically requested that his communication not be made public or where the licensee feels that it should be excluded from availability for public inspection because of the special nature of its content, such as a defamatory or obscene letter. Letters shall be retained in the local file for three years from the date on which they are received by the licensee. Letters received by television licensees shall be placed in one of the following separated subject categories: programming and non-programming. If comments in one letter relate to more than one subject category, the correspondence shall be filed under the category which, in the licensee's judgment, receives the most attention in the letter.

(1) *Sample announcement for radio:*

On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee. We are obligated to make a continuing, diligent effort to determine the significant problems and needs of our service area and to provide programming to help meet those problems and needs.

We invite listeners to send specific suggestions or comments concerning our station operation and programming efforts to (*name and mailing address*). Unless otherwise requested, all letters received will be available for public inspection during regular business hours.

(2) *Sample announcement for television:*

On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee. Each (*anniversary date of deadline for filing renewal application*) we place in our public inspection file a list of what we consider to have been some of the significant problems and needs of our service area during the preceding twelve months and some of our programming to help meet those problems and needs.

We invite viewers to send specific suggestions or comments concerning our station operation and programming efforts to (*name and mailing address*). Unless otherwise requested, all letters received will be available for public inspection during regular business hours.

APPENDIX D

FCC Form 303-A | Federal Communications Commission, Washington, D. C. 20554 | Form Approved OMB No.

ANNUAL PROGRAMMING REPORT

Instructions

1. The following dates will constitute the composite week for use in the preparation of the Annual Programming Report:

(Month) (Day of Month) (Year)

Sunday
Monday
Tuesday
Wednesday
Thursday
Friday
Saturday

2. The following definitions are to be followed in furnishing the information called for in the Annual Programming Report:

(a) News Programs includes reports dealing with current local, national and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis and sports news.

(b) Public Affairs programs include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national and international public affairs.

(c) All Others (excluding entertainment and sports) includes all other programs which are neither intended primarily as entertainment (e.g., music, drama, variety, comedy, quiz, etc.) nor include play-by-play and pre- or post-game related activities and separate programs of sports instruction, news, or information (e.g. fishing opportunities, golfing instructions, etc.)

(d) A local program is any program originated or produced by the station, or for the production of which the station is substantially responsible, and employing live talent more than 50% of the time. Such a program, taped, recorded or filmed for later broadcast shall be classified by the station as local. A local program fed to a network shall be classified by the originating station as local. All non-network news programs may be classified as local. Programs primarily featuring syndicated or feature films, or other non-local recorded programs shall not be classified as local, even though a station personality appears in connection with such material. However, identifiable units of such programs which are live and separately logged as such may be classified as local (e.g., if during the course of a feature film program a non-network 2-minute news report is given and logged as a news program, the report may be classified as local).

3. Where information for the composite week is called for with respect to program type classifications in connection with network programs the applicant may rely on information furnished by the network.

4. Applicants are reminded that for each program included in the categories of "Public Affairs" and "all other," the date and time of broadcast, duration, source and a brief description should be filed with this form. For each program in the category of "News," the date and time of broadcast, duration and source should be filed with this form.

FCC Form 303-A

FORM APPROVED
OMB NO.

(19__)

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

ANNUAL PROGRAMMING REPORT

All commercial television licensees/permittees must file this form annually before September 1. Amount of time should be rounded to nearest minute. Commercial matter should be *included* for all entries in the "total time operating" line (line a.), and should be *included* in computing time devoted to the "news", "public affairs" and "all other" categories. (e.g. a 15-minute news program containing 3 minutes of commercial matter should be counted as 15 minutes of news time.)

"For each program included in the categories of 'public affairs,' and 'all other,' the date and time of broadcast, duration, source and a brief description should be filed with this form. For each program in the category of 'news,' the date and time of broadcast, duration and source should be filed with this form."

CERTIFICATE

I certify that I am _____
Official title

of _____
(Exact legal name of licensee or permittee)

that all the statements made in this report and attached exhibits are considered material representations, and that all the exhibits are a material part hereof and are incorporated herein as if set out in full in the report, that the statements contained in this report are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

_____ _____, 19__
(Signature)

Any person who willfully makes false statements on this report can be punished by fine or imprisonment. U. S. Code, Title 18, Section 1001.

CALL LETTERS	CHANNEL	LICENSEE'S NAME	STATION LOCATION (CITY, STATE)	NETWORK AFFILIATION

MOST RECENT COMPOSITE WEEK DATA	FROM 6AM TO MIDNIGHT				FROM 6PM TO 11PM (5PM TO 10PM CENTRAL AND MOUNTAIN TIME)				FROM MIDNIGHT TO 6AM			
	ALL PROGRAMS		LOCAL PROGRAMS ONLY		ALL PROGRAMS		LOCAL PROGRAMS ONLY		ALL PROGRAMS		LOCAL PROGRAMS ONLY	
(1)	MINUTES OF OPERATION (2)	PERCENTAGE OF TOTAL TIME OPERATING (3)	MINUTES OF OPERATION (4)	PERCENTAGE OF TOTAL TIME OPERATING (5)	MINUTES OF OPERATION (6)	PERCENTAGE OF TOTAL TIME OPERATING (7)	MINUTES OF OPERATION (8)	PERCENTAGE OF TOTAL TIME OPERATING (9)	MINUTES OF OPERATION (10)	PERCENTAGE OF TOTAL TIME OPERATING (11)	MINUTES OF OPERATION (12)	PERCENTAGE OF TOTAL TIME OPERATING (13)
a. TOTAL TIME OPERATING		100%		1/		100%		2/		100%		3/
b. NEWS		1/		1/		2/		2/		3/		3/
c. PUBLIC AFFAIRS		1/		1/		2/		2/		3/		3/
d. ALL OTHERS (Exclusive of entertainment and sports)		1/		1/		2/		2/		3/		3/

1/ Percentages are of the total minutes of operation reported at the top of Column 2.
2/ Percentages are of the total minutes of operation reported at the top of Column 6.
3/ Percentages are of the total minutes of operation reported at the top of Column 10.

APPENDIX E

FCC Form 303 | Television | Revised Section IV-B

Instructions, General Information and Definitions

1. Applicants for renewal of license shall answer all questions in this Section IV-B except for Questions 7B, 7C, 12B and 12C which may be answered at the applicant's option. All Exhibits submitted in response to Questions 2, 3, 12B, 12C, 13 and 14 shall be no more than two pages. Exhibits submitted in response to Question 6 shall be no more than three pages. Exhibits which may be submitted in response to Questions 7B and 7C shall be no more than six pages. Licensees may (at their option) supplement information contained in these Exhibits by placing in their public inspection files additional material, identified as a continuation of the information submitted with Section IV-B and subject to Commission inspection. Should the Commission be unable to make the requisite public interest finding on the basis of information submitted in this Section IV-B, the applicant will be permitted to supplement the Exhibits he has submitted with any additional material may be relevant, including (but not necessarily limited to) additional material which may have already been placed in the public inspection file.

2. A. Where any of the information required is already on file with the Commission, such information need not be resubmitted, *provided* that the previous application or filing containing the information is specifically referred to and identified and the applicant states that there has been no change since the information was filed.

   B. The replies to the following questions constitute representations on which the Commission will rely in considering this application. Thus time and care should be devoted to the replies so that they will reflect accurately applicant's responsible consideration of the questions asked. It is not, however, expected that the licensee will or can adhere inflexibly in day-to-day operation to the representations made herein.

   C. Replies relating to future operation constitute representations against which the subsequent operation of the station will be measured. Accordingly, if during the license period the station substantially alters its programming format or commercial practices, the licensee should notify the Commission of such changes; otherwise it is presumed the station is being operated substantially as last proposed.

3. The applicant's attention is called to the Commission's "Report and Statement of Policy re: Commission En Banc Programming Inquiry." (25 Federal Register 7291; 20 Pike and Fischer Radio Regulations 1902; FCC 60-970), copies of which are available upon request to the Commission; and also to the material contained in Attachments A and B to this Section.

4. A legible copy of this Section IV-B and the exhibits submitted therewith shall be kept on file available for public inspection at any time during regular business hours. It shall be maintained at the main studio of the station or any other accessible place (such as a public registry for documents or an attorney's office) in the community to which the station is or is proposed to be licensed.

5. ***Network Programs.*** Where information for the composite week is called for herein with respect to commercial matter or program type classifications in connection with network programs the applicant may rely on information furnished by the network.

6. ***Signature.***

   This Section IV-B shall be signed in the space provided at the end hereof. It shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer of applicant, if a corporation or association. *SIGNING OF THIS SECTION IS A REPRESENTATION THAT THE PERSON IS FAMILIAR WITH THE CONTENTS OF THIS SECTION AND ASSOCIATED EXHIBITS, AND SUPPORTS AND APPROVES THE REPRESENTATIONS THEREIN ON BEHALF OF THE APPLICANT.*

Definitions

The definitions set out below are to be followed in furnishing the information called for by the questions of this Section IV-B. The inclusion of various types and sources of programs in the paragraphs which follow is not intended to establish a formula for station operation, but is a method for analyzing and reporting station operation.

7. ***Sources*** of programs are defined as follows:

   (a) A ***local program*** (L) is any program originated or produced by the station, or for the production of which the station is substantially responsible, and employing live talent more than 50% of the time. Such a program, taped, recorded, or filmed for later broadcast shall be classified by the station as local. A local program fed to a network shall be classified by the originating station as local. All non-network news programs may be classified as local. Programs primarily featuring syndicated or feature films, or other non-locally recorded programs shall be classified as "Recorded" (REC) even though a station personality appears in connection with such material. However, identifiable units of such programs which are live and separately logged as such may be classified as local (e.g., if during the course of a feature film program a non-network 2-minute news report is given and logged as a news program, the report may be classified as local).

   (b) A ***network program*** (NET) is any program furnished to the station by a network (national, regional or special). Delayed broadcasts of programs originated by networks are classified as network.

   (c) A ***recorded program*** (REC) is any program not defined in (a) and (b) above, including without limitation, syndicated programs, taped or transcribed programs, and feature films.

8. ***Types*** of programs are defined as follows:

   If a program contains two or more identifiable units of program material which constitute different program types as herein defined, each such unit may be separately logged and classified.

   The definitions of the first eight types of programs, (a) through (h) are not intended to overlap each other, and these types will normally include all the programs broadcast. The programs classified under (i) through (k) will have been classified under the first eight and there may be further duplication among types (i) through (k).

104-012—73——6

Definitions - Cont.

(a) ***Agricultural programs*** (A) include market reports, farming or other information specifically addressed, or primarily of interest, to the agricultural population.

(b) ***Entertainment programs*** (E) include all programs intended primarily as entertainment, such as music, drama, variety, comedy, quiz, etc.

(c) ***News programs*** (N) include reports dealing with current local, national, and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis and sports news.

(d) ***Public Affairs programs*** (PA) include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national, and international public affairs.

(e) ***Religious programs*** (R) include sermons or devotionals; religious news; and music, drama, and other types of programs designed primarily for religious purposes.

(f) ***Instructional programs*** (I) include programs, other than those classified under Agricultural, News, Public Affairs, Religious or Sports, involving the discussion of, or primarily designed to further an appreciation or understanding of, literature, music, fine arts, history, geography, and the natural and social sciences; and programs devoted to occupational and vocational instruction, instruction with respect to hobbies, and similar programs intended primarily to instruct.

(g) ***Sports programs*** (S) include play-by-play and pre- or post-game related activities and separate programs of sports instruction, news, or information (e.g., fishing opportunities, golfing instruction, etc.).

(h) ***Other programs*** (O) include all programs not falling within definitions (a) through (g).

* * * * * * * *

(i) ***Editorials*** (EDIT) include programs presented for the purpose of stating opinions of the licensee.

(j) ***Political programs*** (POL) include programs which present candidates for public office or which give expression (other than in station editorials) to views on such candidates or on issues subject to public ballot.

(k) ***Educational institution programs*** (ED) include any program prepared by, in behalf of, or in cooperation with, educational institutions, educational organizations, libraries, museums, PTA's or similar organizations. Sports programs shall not be included.

9. ***Commercial matter*** (CM) includes commercial continuity (network and non-network) and commercial announcements (network and non-network) as follows:

(a) ***Commercial continuity*** is the advertising message of a program sponsor.

(b) ***A commercial announcement*** is any other advertising message for which a charge is made, or other consideration is received.

(1) Included are (i) "bonus" spots, (ii) trade-out spots, and (iii) promotional announcement of a future program where consideration is received for such an announcement or where such announcement identifies the sponsor of the future program beyond mention of the sponsor's name as an integral part of the title of the program, (e.g., where the agreement for the sale of time provides that the sponsor will receive promotional announcements, or when the promotional announcement contains a statement such as "TOMORROW SEE - - [NAME OF PROGRAM] - - BROUGHT TO YOU BY - - [SPONSOR'S NAME]")

(2) Other announcements including but not limited to the following are *not* commercial announcements:

(i) Promotional announcements, except as defined above;

(ii) Station identification announcements for which no charge is made;

(iii) Mechanical reproduction announcements;

(iv) Public service announcements;

(v) Announcements made pursuant to Section 73.654(d) of the Rules that materials or services have been furnished as an inducement to broadcast a political program or a program involving the discussion of controversial public issues;

(vi) Announcements made pursuant to the local notice requirements of Sections 1.580 (pre-grant) and 1.594 (designation for hearing) of the Rules.

10. ***A public service announcement*** (PSA) is any announcement (including network) for which no charge is made and which promotes programs, activities, or services of federal, state, or local governments (e.g., recruiting, sales of bonds, etc.) or the programs, activities or services of non-profit organizations (e.g., UGF, Red Cross blood donations, etc.), and other announcements regarded as serving community interests, excluding time signals, routine weather announcements and promotional announcements.

11. ***A program*** is an identifiable unit of program material, logged as such, which is not an announcement as defined above (e.g., if, within a 30-minute Entertainment program, a station broadcasts a one-minute news and weather report, this news and weather report may be separately logged and classified as a one-minute news program and the entertainment portion as a 29-minute program).

12. ***Composite Week*** - Seven days designated annually by the Commission in a Public Notice and consisting of seven different days of the week.

13. ***Typical Week*** - A week which an applicant projects as typical of his proposed weekly operation.

14. The "current guidelines" of the Commission referred to in Question 1B are found in the Primer on Ascertainment of Community Problems by Broadcast Applicants (27 FCC 2d 650, 21 RR 2d 1507, 36 Fed Reg 4092). The "appropriate materials" referred to in Question 1B are those materials which the Primer refers to as "showings" which must be made by the applicant.

FCC Form 303 | Television | Revised Section IV-B

Name of Applicant

Call letters of station | City and state which station is licensed to serve

1. The applicant has familiarized himself with Section 1.526(a)(9) of the Commission's Rules and with the Commission's current requirements regarding the ascertainment of the problems and needs of his service area and in light of their provisions does hereby represent that:
   A. In accordance with Section 1.526(a)(9) he has placed in his public inspection file at the appropriate times his annual lists for the current license period of significant problems and needs of his service area and typical and illustrative programs broadcast to help meet each of these problems and needs, and he has submitted with this renewal application copies of each of these lists;
   B. He has made good faith efforts to ascertain the problems and needs of the public within his service area in accordance with the current guidelines of the Commission and upon the filing of this application, has placed in the station's public inspection file the appropriate materials regarding those ascertainment efforts.

2. As a result of his recent ascertainment efforts, does the applicant anticipate that his next annual list of problems and needs of his service area and programs broadcast to help meet them (which will be the first list for the new license period) will contain specific problems and needs and/or programs or program series not included in his most recent list?

   ___ Yes ___ No

   If "Yes", indicate in Exhibit No___the specific problems and needs and/or programs or program series.

3. Describe in Exhibit No _____ the procedures applicant has or proposes to have for the consideration and disposition of complaints or suggestions coming from the public.

4. A. State for the most recent composite week (a) the total number of public service announcements and (b) the number of public service announcements broadcast between 8AM-11PM.

   (a) _____ (b) _____

   B. Of the total number of public service announcements broadcast during the composite week state (a) the number which in the licensee's judgment were primarily designed to promote programs, activities or services of organizations or organizational units located in the service area, (b) the number which in the licensee's judgment were primarily designed to promote programs, activities or services of organizations or organizational units located outside of the service area and (c) the number which in the licensee's judgment either do not readily fall into either category (a) or (b) and/or are a combination of both.

   (a) _____ (b) _____ (c) _____

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5. A. Was the applicant affiliated with one or more national television networks during the past license period?

Yes_____ No_____

If "Yes", give name(s) of Network(s):_____

_____

If applicant had more than one such affiliation, which network was the principal source of network programs?

_____

B. If a network affiliate, did the applicant regularly carry (i.e. carry more than 50% of the programs offered during the current license period) available network (news and public affairs):

	Yes	No
(1) News	/	
(2) Public Affairs	/	

6. In Exhibit No._____give a brief description of programs, program segments or program series broadcast during the license period that were primarily directed to children twelve years old and under. Indicate the source, time and day of broadcast, frequency of broadcast, and program type.

7. A. In the applicant's judgment, does the information supplied in the Annual Programming Reports submitted during the current license period, the information supplied in the annual listings of programs and program segments broadcast to help meet significant problems and needs of the service area for the current license period, and the information supplied in Questions 4, 5 and 6 of this form adequately reflect his programming during the current license period?

Yes_____ No_____

B. If the answer to "A" is "No", the applicant may attach as Exhibit No._____ such additional information (including the listing of entertainment programs the applicant considers to be of special merit) as may be necessary to describe accurately and present fairly his program service.

C. If the applicant's programming reflected in the Annual Programming Reports submitted during the current license period varied substantially from the programming representations made in his last renewal application, the applicant may submit as Exhibit No._____a statement explaining the variations and the reasons therefor.

8. Indicate the minimum amount of time the applicant proposes to devote normally each week to the categories below. Commercial time should be included in all computations.

ANTICIPATED TYPICAL WEEK DATA	FROM 6AM TO MIDNIGHT				FROM 6PM TO 11PM (6PM TO 10PM CENTRAL AND MOUNTAIN TIME)				FROM MIDNIGHT TO 6AM			
	ALL PROGRAMS		LOCAL PROGRAMS ONLY		ALL PROGRAMS		LOCAL PROGRAMS ONLY		ALL PROGRAMS		LOCAL PROGRAMS ONLY	
(1)	MINUTES OF OPERATION (a)	PERCENTAGE OF TOTAL TIME OPERATING (b)	MINUTES OF OPERATION (c)	PERCENTAGE OF TOTAL TIME OPERATING (d)	MINUTES OF OPERATION (e)	PERCENTAGE OF TOTAL TIME OPERATING (f)	MINUTES OF OPERATION (g)	PERCENTAGE OF TOTAL TIME OPERATING (h)	MINUTES OF OPERATION (i)	PERCENTAGE OF TOTAL TIME OPERATING (j)	MINUTES OF OPERATION (k)	PERCENTAGE OF TOTAL TIME OPERATING (l)
a. TOTAL TIME OPERATING		100%		1/		100%		2/		100%		3/
b. NEWS		1/		1/		2/		2/		3/		3/
c. PUBLIC AFFAIRS		1/		1/		2/		2/		3/		3/
d. ALL OTHERS (Exclusive of entertainment and sports)		1/		1/		2/		2/		3/		3/

1/ Percentages are of the total minutes of operation reported at the top of Column 2.
2/ Percentages are of the total minutes of operation reported at the top of Column 6.
3/ Percentages are of the total minutes of operation reported at the top of Column 10.

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9. A. State (a) the minimum total number of public service announcements and (b) the minimum number of public service announcements between 8AM-11PM the applicant proposes to broadcast during a typical week.

(a)_____ (b) _____

B. Of the total number of public service announcements which the applicant proposes to broadcast during a typical week state (a) the number which he expects will be primarily designed to promote programs, activities or services of organizations or organizational units located in the service area, (b) the number he expects will be primarily designed to promote programs, activities or services of organizations or organizational units located outside of the service area and (c) the number which he expects will either not fall readily into either category (a) or (b) and/or will be a combination of both.

(a)_____ (b) _____ (c) _____

PAST COMMERCIAL PRACTICES

10. State the number of 60-minute segments of the most recent composite week (beginning with the first full clock hour and ending with the last full clock hour of each broadcast day) containing the following amounts of commercial matter.

A. Up to and including 8 minutes _____

B. Over 8 and up to and including 12 minutes _____

C. Over 12 and up to and including 16 minutes _____

D. Over 16 minutes _____

List each segment in Category "D" above, specifying the amount of commercial time in the segment, and the day and time of broadcast.

Segment	Amount of Commercial Time in Segment	Day and Time Broadcast

If more space is needed continue in Exhibit No._____

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11. State the number of 60-minute segments in the 6PM-11PM (5 PM-10PM Central and Mountain Time) time period of the most recent composite week containing the following amounts of commercial matter.

A. Up to and including 8 minutes _____

B. Over 8 and up to and including 12 minutes _____

C. Over 12 and up to and including 16 minutes _____

D. Over 16 minutes _____

List each segment in category D above, specifying the amount of commercial time in the segment, and the day and time broadcast.

Segment	Amount of Commercial Time in Segment	Day and Time Broadcast

If more space is needed continue in Exhibit No._____

12. A. In the applicant's judgment, does the information supplied in Questions 10 and 11 for the composite week adequately reflect its commercial practices?

Yes_____ No _____

B. If "No", applicant may attach as Exhibit No._____such additional material as may be necessary to describe adequately and present fairly its commercial practices.

C. If applicant's commercial practices for the period covered by Questions 10 and 11 varied substantially from the representations made in the applicant's last renewal application, the applicant may explain in Exhibit No._____ the variations and the reasons therefor.

FCC Form 303 | Television | Revised Section IV-B

PROPOSED COMMERCIAL PRACTICES

13. What is the maximum amount of commercial matter in any 60-minute segment which the applicant proposes normally to allow?

_____

If the applicant proposes to permit this amount to be exceeded at times, state in Exhibit No._____ under what circumstances and how often this is expected to occur, and the limits that would then apply.

14. What is the maximum amount of commercial matter in any 60-minute segment between the hours of 6PM-11PM (5PM-10PM Central and Mountain Time) which the applicant proposes normally to allow?

_____

If the applicant proposes to permit this amount to be exceeded at times, state in Exhibit No _____ under what circumstances and how often this is expected to occur, and the limits that would then apply:

15 Certification

The undersigned has familiarized himself with paragraph 6 of the Instructions to Section IV-B concerning signature requirements and in light of its provisions does hereby:

A. Acknowledge that all the statements made in this Section IV-B and the attached exhibits are considered material representations and that all the exhibits are a material part hereof and are incorporated herein as if set out in full in the application form; and

B. Certify that the statements herein are true, complete, and correct to the best of his knowledge and belief and are made in good faith.

SIGNED AND DATED this ..... day of ..... , 19 ..... .

.....
(NAME OF LICENSEE)

By: .....
(SIGNATURE)

.....
(PLEASE PRINT NAME OF PERSON SIGNING)

.....
(TITLE)

WILLFUL FALSE STATEMENTS MADE IN THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U. S. CODE, TITLE 18, SECTION 1001.

Concurring Statement of Commissioner Nicholas Johnson

The new license renewal application package adopted today solves a few of the regulatory problems that have arisen in the past from deficiencies or ambiguities in our application forms and procedures. I concur in this action as an absolutely necessary one, but I would also caution that, while these changes give us something better than we have now, they fall far short of the procedural *and* substantive changes we need to make before we can engage in any meaningful regulation of the broadcaster's fulfillment of his public interest obligations.

This Commission has chosen to regulate broadcasters in this country, in all areas but those concerning editorializing and the coverage of controversial issues, on a quantitative rather than a qualitative basis. Programming content is nowhere an issue in the license renewal process except where the licensee *makes* it an issue by personal attack or editorializing. Even the fairness doctrine, once the content of an issue has been deemed controversial, looks only to a quantitative fairness in a licensee's coverage of that issue, not to the quality of that coverage. And in areas where the public interest would seem to require a certain minimum vigilance over content, as in programming affecting the minds and emotions of our children, we have moved as a Commission at a pace so excruciatingly slow we may *never* see significant reforms.

If we assume, then, that the outer limits of our regulation of the public interest responsibilites of broadcast licensees will be quantitative ones, the very least we can do is assure that the quantitative data we are given are as complete and helpful as possible. This has not been the case with previous renewal applications. The new form admirably attempts to remedy some of the previous shortcomings.

It will now be possible, for example, to get more useful information about the amount of news, public affairs and local programming, and the time at which it is broadcast. It will not be so easy for a station to run dozens of public service announcements at 2:00 AM and claim large numbers in their application, since we will be getting a breakdown of time of day for psa's. In addition, the new application will tell us how much psa effort the station is making on behalf of *local* organizations. We will have more information, also broken down by time of day, on the extent of a station's commercialization. And with the badly needed annual reporting forms we will be able to get certain types of information for a greater length of time within the three year renewal period. To take public affairs programming as an example, where the old application gave us only the total hours of public affairs in one seven day composite week for three full years of a license renewal term, the new forms will allow us to view the quantity of *local* public affairs programming in *prime time* for seven days in *each year* of the renewal period.

There are, however, deficiencies in the current renewal package which should not go unnoticed. While we do have a question for the first time on clearance of network news and public affairs, for example it requires only that the station note whether it "carried more than 50%" of such programming. Since news and public affairs are conceivably the only "services" actually supplied by the network to the viewer, and the number of those programs is so few, I feel we should ask which programs, by name and date, were and were not carried, and (when pre-empted) what was carried in their stead. To carry local public affairs instead of network is one thing; constantly to substitute more lucrative old movies is something else.

The question on children's programming, while it is also actually *present* in the application for the first time, is even more significantly watered down from the originally proposed version, in two important ways: first, it no longer requires the broadcaster to discuss what it is doing for specific age groups of children; second, it no longer asks

which programs the broadcaster feels are *designed for* children, but only which are *directed to* them.

In other areas this "package" also represents a watered down version of what *should* be required in the license renewal process. The rule originally proposed regarding public announcements, for example, would have required an announcement to the public once every eight days in prime time; the rule which is passed today requires such announcements only once every 15 days, and prime time announcements are required only every 30 days, with no increase in frequency during the period in which the licensee is actually applying for renewal. Since the public is rapidly becoming an important and integral part of the renewal process, this represents an attempt by the Commission to keep such public participation to an absolute minimum. So, too, does the apparent Commission concern over keeping the text of the announcement short—which betrays a far greater sympathy for the licensee than for the public in whose interest we are supposed to regulate. That "concern" also manifests itself in our tenuous commitment to keeping a public file of letters received in response to the public announcements: for television stations, we require only that they divide the letters into programming and non-programming categories; for radio, we require only that they *keep* the letters and make them available to anyone who wishes to inspect them—and we note that even this "burden" may be eliminated within a year if the radio licensees cry loudly enough about it.

Ultimately, it was the concept of better regulating the public interest service of the broadcaster that motivated the changes we find today in this "package." But if that motivation is to be a sincere one, we cannot stop with a few changes in the format of our data collection process. We must look as well to alterations in the way in which we *utilize* renewal application information, in the way in which we determine which applicant to renew and which deserves at least a further inquiry into his practices. We could have done it within the context of this proceeding, since a key early element in these changes was the establishment of certain program priorities which, if met by the applicant, could result (absent other objections) in automatic renewal of the license. Applicants not meeting the priorities would have been isolated by a computer, and at least the worst offenders singled out for some further inquiry. Somehow, that element never came to a vote, but was quietly dropped along the way with lip service to the current "good faith," "case-by-case" method of processing in which non-regulation is more often the order of the day.

It is one thing to do as we have done today and move towards the acquisition of a more valuable set of regulatory data; it is quite another to develop a logical, intelligent regulatory method for processing that data. Having demonstrated, by today's small procedural improvements, a sincere desire to strengthen our approach to the broadcast renewal process, we should not leave the job half done by refusing to re-examine our substantive renewal criteria as well.

I concur in today's action because I believe it does constitute a small step forward. After seven years of idealistic hope and effort to bring meaningful responsibility into the FCC's license renewal process, how-

ever, my enthusiasm for today's tiny gesture in that direction is, perhaps understandably, somewhat restrained.

CONCURRING STATEMENT OF COMMISSIONER H. REX LEE

I concur in the decision to revise our policies and procedures relating to the renewal of broadcast licenses. As indicated in the Commission's *Notice of Inquiry and Notice of Proposed Rule Making in Docket No. 19153*, 27 FCC 2d 697 (1971), our purpose here is to simplify the renewal process by concentrating on the essential elements of broadcast service to the public, by encouraging a continuing dialogue between a licensee and his community throughout the license period and by providing for more orderly procedures in the consideration of petitions to deny renewal applications. Hopefully, the action taken by the Commission will insure that broadcast licensees remain conversant with and attentive to community problems, needs and interests and will stimulate public participation in the operation of broadcast stations so that differences may be resolved on the local level. Admittedly, the revised policies and procedures contained in the *Report and Order* are detailed and quite specific and may appear to be somewhat inconsistent with our recent efforts to ease administrative burdens—but they are intended to improve the renewal process for both broadcast licensees and the public they serve. If our action here fails to produce the desired results or imposes unreasonable burdens on either the public or our licensees, I would expect the Commission to reexamine the impact of its renewal regulation in a timely fashion.

CONCURRING STATEMENT OF COMMISSIONER RICHARD E. WILEY

I concur in the Commission's action because, basically, I believe that it serves the public interest by promoting broadcaster-audience dialogue while, at the same time, reducing the paperwork required in our present Renewal Form 303. While I feel this end product of a prolonged effort to improve our renewal process has been immeasurably improved by suggestions which some of my colleagues and I have made over the course of the last year, I still have certain reservations of which I would like briefly to make note.

My major concern has been with the adoption of an annual reporting form. While such a process may yield worth-while statistical information, I have questioned whether—contrary to the intent of our re-regulation program to reduce unnecessary administrative burdens on busy licensees—we are creating an additional responsibility without a clear understanding of the corresponding regulatory objective to be attained thereby; whether the statistical data obtained may be utilized to compare, perhaps unfairly, unlike stations in diverse markets and circumstances; and, finally, whether such a report may become the vehicle for an annual renewal. In this regard, I am heartened by certain changes which have been made in the report form and, most importantly, by the Commission's forthright statement that it does not intend to utilize the annual programming statistics to "rank"

stations nor to otherwise transform such information into a yearly evaluation for renewal purposes (see paragraphs 114 and 121).

I also would have preferred to delete a question on the new renewal form concerning affiliate carriage of network news and public affairs programs. While I can appreciate that responses to such a question may be of some informational benefit to the Commission, I am concerned that affiliates may be inhibited somehow in the exercise of legitimate licensee discretion. I am mollified, however, by the Commission's explanation (see paragraph 160) that failure to carry network programming does not *ipso facto* represent a failure to serve viewers and that clearance of any particular network offering does not necessarily imply that the public interest is being served. As we have consistently held, programming decisions ultimately must be made by individual licensees in response to local community problems and needs, and such a responsibility is both personal and nondelegable.

My own preference also would have been to exclude radio licensees from the obligation to retain letters, comments and written suggestions in the public file until an assessment could have been made of the experience of television licensees in this regard. While a retention requirement (particularly without categories) may constitute no unreasonable burden on small market radio operators, I believe the Commission was prudent in issuing a directive to our Re-regulation Task Force (see paragraph 51) to evaluate the usefulness of such a provision after one year's experience. In keeping with our customary practice, relevant comments of broadcasters and members of the public will be welcomed. In connection with the retention requirement for television operators, I am pleased that the Commission saw fit to reduce the necessary categorization of correspondence from a burdensome seven different areas to only two (paragraph 54).

Finally, there were a number of other relatively minor matters which I would have resolved differently (e.g., combining news and public affairs into a single category; including rather than excluding ordinary news inserts in compiling statistics; deleting the reference to "live talent" in the definiton of "local program", etc.). On balance, however, I believe that the overall purpose of shortening and streamlining our renewal application (especially the elimination of unnecessary questions and the establishment of exhibit page limitations with the opportunity to supplement in the event of challenge), and of encouraging and implementing effective and continuing dialogue between licensee and public, warrants my support. In the final analysis, I believe that the document, as adopted, represents a productive effort to achieve these dual objectives. Moreover, I am convinced that, to the extent experience dictates the need for changes in our program, this Commission will be responsive in accordance with what the public interest may require.

F.C.C. 73-451

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of
FORMULATION OF RULES AND POLICIES RELATING TO THE RENEWAL OF BROADCAST LICENSES — Docket No. 19153

INTERIM REPORT AND ORDER

[See paragraph 214]

(Adopted May 1, 1973; Released May 4, 1973)

BY THE COMMISSION: COMMISSIONERS ROBERT E. LEE, JOHNSON, H. REX LEE, AND WILEY CONCURRING AND ISSUING STATEMENTS; COMMISSIONER REID CONCURRING IN THE RESULT.

1. The Commission has before it (1) a Notice of Inquiry and Notice of Proposed Rule Making (36 FR 3902) adopted February 17, 1971 and (2) comments, reply comments, and other materials filed in response to the Notice.[1] The proposals in the Notice were set out in four separate sections. This INTERIM REPORT AND ORDER treats each of the sections separately and in the same sequence as they appeared in the Notice.

2. All of the matters raised in comments and reply comments were reviewed in detail and those that related to more than one section of the Notice were fully considered with respect to each relevant section. We have not, however, attempted to address ourselves to each and every comment and our treatment of questions by categories encompasses consideration of all of the individual variations set forth in the separate comments.

I. PROPOSED RULEMAKING TO ADOPT RULES REQUIRING BROADCAST NOTICE OF THE MANNER IN WHICH THE PUBLIC MAY EXPRESS OPINIONS ABOUT BROADCAST SERVICE AND THE MAINTENANCE OF A LOCAL PUBLIC FILE OF OPINIONS RECEIVED BY LICENSEES

The Commission Proposal

3. In the first portion of the Notice the Commission proposed to amend Part 73, Subpart H of its Rules by adding as Section 73.1202 a requirement that all commercial broadcast stations air a notice to the public informing them of their interest in station performance and of the appropriate manner in which to express their satisfaction or complaints with station operation. The Commission indicated that the

[1] Approximately 65 parties participated in the proceeding. They are listed in Appendix A. If a "party" consisted of two or more entities making a joint filing, the names of the entities are listed under the name of the lead entry. The short designation of every party referred to in the present document appears in parenthesis following the full name in Appendix A.

purposes of these announcements were to ensure that: (1) the licensee would remain conversant with and attentive to community problems and needs throughout the license period; (2) the licensee would make known to the public his responsibility to continually ascertain the most significant problems and needs of his service area and to present programs designed to deal with these problems and needs; (3) the public would be continually encouraged by the licensee to make comments, complaints and suggestions regarding the operation of the station; (4) any complaints regarding the operation of a station would be communicated to the licensee immediately and every effort would be made during the license period by both the complainant and the licensee to resolve differences and problems through discussion on the local level. New Section 73.1202 of the Commission's Rules would read as follows:

> 73.1202 Public Notice of Licensee Obligations.
>
> Each licensee of a commercial AM, FM, or television station, except international or television translator stations, shall make an announcement informing the public of the licensee's obligation to the public and of the appropriate method for individuals to express their opinions of the station's operation. Such announcement shall be given at least once every eighth day throughout the license period except during the period from six months prior to expiration of the license to 30 days prior to expiration, during which time the renewal application notices in Section 1.580 of the Commission's Rules shall be broadcast. Such announcements shall be aired during the following time periods:
>
> (1) For commercial television broadcast stations, between 8:00 P.M. and 10:00 P.M.
>
> (2) For commercial AM and FM broadcast stations, between 7:00 A.M. and 9:00 A.M., but if such stations do not operate during these hours, then between 4:00 P.M. and 7:00 P.M.

In the case of commercial television broadcast stations, such notices shall be broadcast orally with camera focused on the announcer; at the end of the notice, a signboard with the licensee's address for receiving complaints shall be shown.

The announcement shall contain the following information:

> For Commercial Radio Stations:
>
> (a) The station's call letters.
>
> (b) A statement that the frequency on which the station operates is public property and that the station was granted on (give date of last renewal grant) a three year license by the Federal Communications Commission in Washington, D.C., to serve the public interest, convenience and necessity.
>
> (c) A statement that the Commission has indicated that service in the public interest obligates the broadcaster to make a continuing, diligent effort to determine the most significant problems and needs in his service area and to provide programming to help meet those problems and needs.
>
> (d) A statement that to remain informed of the adequacy of its performance, the station requests its viewers or listeners to inform it of their opinions, criticisms or suggestions.
>
> (e) A request that comments regarding the station's performance be as specific as possible.
>
> (f) The appropriate name and address to which comments should be mailed.
>
> (g) A statement indicating that comments may also be sent to the Federal Communications Commission, Washington, D.C. 20554.
>
> For Commercial Television Stations:
>
> (a) The station's call letters.
>
> (b) A statement that the frequency on which the station operates is public property and that the station was granted on (give date of last renewal

grant) a three year license by the Federal Communications Commission in Washington, D.C. to serve the public interest, convenience and necessity.

(c) A statement that the station is required to submit an annual filing with the Commission indicating what the licensee considered during the past year to be the most significant problems and needs of the public which he served and what programs the station aired during the year that were addressed to those problems and needs.

(d) A statement that the above filing is available for public inspection at the station's business office (or station's main location) during regular business hours. Give address and business hours.

(e) A statement that to remain informed of the adequacy of its performance, the station requests its viewers or listeners to inform it of their opinions, criticisms or suggestions.

(f) A request that comments regarding the station's performance be as specific as possible.

(g) The appropriate name and address to which comments should be mailed.

(h) A statement indicating that comments may also be sent to the Federal Communications Commission, Washington, D.C.

During the period between 30 days prior to expiration of the license and the date of license renewal, stations shall broadcast the appropriate announcement herein, except for the mention of the date of the last renewal grant. Commencing on the eighth day following the date of renewal, the regular announcement shall be resumed and be broadcast every eighth day thereafter.

All written comments and suggestions received by the licensee concerning operation of the station shall be maintained in a local file, available for inspection by the public, except when the person making the comment or suggestion has specifically requested that his communication not be made public or where the licensee feels that it should be excluded from availability for public inspection because of the special nature of its content, such as a defamatory or obscene letter. In accordance with Section 1.526 of the Commission's Rules such file shall be kept for seven years. Licensees shall be required to separate written comments by subject categories to facilitate inspection by members of the public. Subject categories shall include comments on technical operation; comments on advertising; comments regarding employment practices; comments complimentary of programming; comments adversely critical of programming; and comments suggesting new programming. If comments in one letter relate to more than one subject category, the correspondence shall be filed under the category which, in the licensee's judgment, receives the most attention in the letter.

The Commission included in the Notice the following sample announcements for commercial radio and television stations which incorporate all of the requirements of proposed Section 73.1202.

Sample Announcement for Television

The channel on which this station operates is public property. On (date of last renewal grant), we were granted a three year license by the Federal Communications Commission to operate this channel in the public interest.

Each year we are required to submit to the Commission a list of what we consider to have been the most significant problems and needs of this community during the past year and the programs we aired during the year that were addressed to those problems and needs. This filing is available for public inspection at our business office (address) during our regular business hours of — a.m. to — p.m., Monday through Friday.

In order that Station _____ may better serve our viewers, we request that you inform us of any opinions, criticisms or suggestions you may have regarding our station operation. Comments or suggestions should be as specific as possible and should be mailed to (name and mailing address). Your letters will be available for public inspection at our business office unless otherwise requested. Comments may also be sent to the Federal Communications Commission, Washington, D.C. 20554.

Sample Announcement for Radio

The frequency on which this station operates is public property. On (date of last renewal grant), we were granted a three year license by the Federal Communications Commission to operate this frequency in the public interest. We are obligated to make a continuing, diligent effort to determine the most significant problems and needs of this community and to provide programming to help meet those problems and needs.

In order that Station _____ may better serve the needs and interests of our listeners, we request that you inform us of any opinions, criticisms or suggestions you may have regarding our station operation. Comments or suggestions should be as specific as possible and should be mailed to (name and mailing address). Unless otherwise requested, your letter will be made available for public inspection at our business office (address) during our regular business hours of — a.m., to — p.m., Monday through Friday. Comments may also be sent to the Federal Communications Commission, Washington, D.C. 20554.

Comments Opposing Any Announcements

4. A number of parties express opposition to any requirement of airing broadcast notices informing the public of their interest in station performance and encouraging listeners to communicate their opinions regarding station operation. This opposition is primarily based on three general assertions: first, the announcements are unnecessary; second, the announcements will have undesirable effects; and third, the announcements will not have the effects desired by the Commission. Only NAB maintains that the Commission lacks the authority to require licensees to make the announcements, claiming that the announcements are neither authorized by specific provision of the Communications Act nor by broad powers bestowed by Sections 4(i) or 303(r).

5. Those parties calling the announcements unnecessary contend that licensees are not guilty of ignoring the public or of failing to maintain a dialogue with or concern for listeners, and/or they maintain that the public already knows it can complain to the station or the Commission. Basic, for example, argues that it is simply not true that licensees spend two out of every three years blithely ignoring their publics' voices. Such a course would be completely economically dysfunctional, for when a station ceases to continuously ascertain and serve community needs and interests, people will stop watching and listening. Moreover, says Basic, broadcasters are professionals who take pride in their work. Part of that pride is the meeting of obligations to keep abreast of needs and interests of the service area and then fashioning programs which satisfy those needs.

6. Many stations emphasize in their filings that they are communicating with their community on a continuing basis and have no need of more regulations. Metromedia submits that when viewed in the

light of its station's extensive day-to-day effort to maintain a continuous useful exchange of ideas, the Commission's assumption of a lack of continuing dialogue is incredible. KWNA maintains that if a station did not meet community needs, it would soon be out of business and Fetzer believes there is practically no chance any successful licensee could isolate himself from opinions and desires of the local community and expect to be a socially effective force within that community. McClatchy suggests that responsible broadcasters keep informed of problems and needs on their own initiative and if any initiative is needed for others, the Commission already requires a specific program of ascertainment. McClatchy claims there is no evidence existing procedures have broken down.

7. Others maintain the announcement is also unnecessary because the public already knows it can complain to the station and/or the Commission. NAB states the public already knows where to direct comments regarding broadcasting and does not have to be told of its right to complain or to compliment. Group W agrees and says that many people already freely exercise their privilege. Thus the announcements would only repeat what is generally known or assumed by the public and little would be gained by their repeated broadcast. Westinghouse feels the announcements to be particularly unnecessary in light of the notices concerning the filing of the renewal applications proposed in Part III of the Notice, while Paducah believes annual reporting proposed in Part IV of the Notice makes the announcements less necessary for television licensees.

8. North Carolina contends that the increase in "strike applications," informal objections and petitions to deny in recent years clearly suggests the public is fully informed about the right to comment on station performance and to bring matters to the Commission. CBS also notes a perceptive increase in communications from the public and claims there is no need to stimulate these further. Gill maintains there is no reason to believe an increased number of responses would provide more information than is presently being received by licensees, since Gill believes that the comments it has been receiving from the public already present the views of a cross-section of the community.

9. Undesirable effects of the announcements upon listeners and/or licensees are predicted by various parties, although BEST in Reply Comments contends that there are no facts available upon which to base a reasoned analysis of the quantity, quality or nature of the comments that will be generated by the announcements. Louisiana, Kansas, NBC, ABC, GE, KAKC, Metromedia and Paducah expect the announcements to prove an annoyance and irritation to the general public. Paducah says this will be particularly true if the announcements are made as frequently as every eighth day and repeated in the same time period. ACLU feels the announcements would probably be heard as abrasive and condescending rhetoric to some who are offended and discouraged by media insensitivity to their needs and interests.

10. Others fear the announcements would generate crank calls and letters, thereby squandering the staff, resources and time of the licensee

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and distracting him from his primary task of programming in response to community needs. North Carolina, for example, contends that staffs will be bogged down with frivolous complaints and Corinthian says licensees will drain their energies in fruitless exchanges with dissident, non-representative, irresponsible groups and individuals. WGAL fears broadcasters may feel compelled to yield to organized pressure groups without regard to the merits of their complaints. WRAD and WASA suggest that the burden resulting from the eighth day notices will be particularly great for small stations with their limited staff and resources, while Storer estimates that in the top 22 markets, 165,000 letters a year will be received, thus ensuring that responding to letters will prove a tremendous burden for the large stations as well. Sonderling submits that if the announcements should prove effective in stimulating communications from listeners and viewers, the increased volume of letters received by a station would make the prospects for developing news and meaningful dialogue exceedingly slim. Rather, what could be reasonably expected is that the volume of letters could not be effectively handled.

11. Several parties discuss the financial burden that would be imposed by the airing of the announcements in lieu of commercials. Carter indicates the loss of advertising revenues would jeopardize the ability of its stations to improve or even maintain their public service capability. Paducah calculates that in 1971–72, during five of the seven evenings of the week, NBC affiliates will have as few as three and a maximum of five opportunities for any kind of local announcements between 8:00 and 10:00 P.M., and at most, only two or three opportunities for local sixty second announcements.

12. Undesirable effects of the announcements upon the Commission's workload are also projected. Storer maintains that the number of complaints sent to the Commission as a result of the invitation to do so contained in the proposed announcements might run in the millions. North Carolina says the Commission would be bogged down with frivolous complaints. Louisiana and Kansas notes that according to the yearly reports of the Commission's Complaints and Compliance Division, only 50 of the approximately 60,000 complaints sent to the Commission in 1970 warranted a full investigation. Metromedia fears the increased burden on the Commission's staff would result in increased license fees, while Norbertine is concerned that the burden on Commission staff would result in letters not being forwarded to the licensee in time to permit effective changes in policy and programming.

13. In addition to comments predicting various undesirable effects of the announcements, comments were received predicting the announcements would have no effect and thus would not achieve the Commission's objectives. The Commission indicated in the Notice that one of the main purposes of the announcements was to promote resolution of complaints at the local level as they arise through discussion between complainant and the licensee rather than through Commission inquiry. The effectiveness of the announcements in achieving this goal was questioned by some parties who claim citizen groups will

continue to wait until renewal time to air their complaints because this has proved a successful tactic. WGN notes that those groups who time their protests to correspond with renewal filings because they realize it is then that the broadcaster is most vulnerable, will still be under no obligation to communicate with broadcasters during the license period. NAB maintains that groups use the tactic of avoiding continuing dialogue because the objectives of these groups are not to settle complaints but to stockpile them. The announcements will not contribute to the establishment of a dialogue between stations and local ephemeral groups which are directed and motivated by outside forces. Nor will the announcements reduce or affect the submission of petitions to deny license renewals which are the result of a nationally co-ordinated movement to restructure broadcasting. United Church and BEST say groups have often waited until renewal time to press their complaints because complaints in the middle of the license period generally go unheeded. United Church says that as in collective bargaining, significant changes are discussed only when expiration of control is imminent. Urban Law submits that the Commission offers no verification that licensees would respond to complaints in the absence of an impending renewal and petition to deny.

14. NBC alleges that the existing notice of the filing of renewal applications is ineffective in stimulating dialogue with the community; thus doubts are cast on the advisability of requiring additional announcements throughout the license period. GE, ABC, WSAU-TV and KAKC contend that the existing renewal announcements have not produced meaningful or significant dialogue because dialogue is created through more personal, direct and informal means. Corinthian maintains that the proposed eighth day announcements will be of no more interest to the public than the legal notices of renewal filings now published in the newspapers. Plough states that it has been asking for complaints and suggestions in five radio markets since Spring of 1970 and has received few responses. Plough claims this is because (a) it is easier to switch the dial, (b) because over-the-air comments do not result in comments from listeners, (c) because the public is lethargic, and (d) because only groups are interested in responding, KGUD says it has aired the sample announcement for radio proposed in the Notice as a test. It received one post card and many crank calls.

15. *Conclusion.* With regard to the contention that we lack the authority to require the announcements, we consider new Section 73.1202 of the Commission's Rules (Appendix C of this Report and Order) to be a particularization of the licensee's basic public interest obligation to serve as an outlet for local expression. (See the statutory provisions cited in paragraph 214).

16. As to the necessity of the announcements, we note with some concern that since the issuance of the Notice in February 1971, the number of formal petitions to deny broadcast license renewal applications has continued to increase. The most common complaint raised in recent petitions relates to an alleged failure of the licensee to adequately respond to the problems and needs of at least a significant seg-

ment of his service area. In most cases, the specific points raised in these filings were not communicated to the licensee during the first two and one-half years of the license period and little or no dialogue occurred between petitioner and licensee prior to the filing of the renewal application. In requiring the announcements, we are not passing judgments on the merits of the complaints raised in the petitions, nor do we mean to imply any criticism of either licensees or citizen groups. We recognize that, as several parties suggest, rapid social change rather than any irresponsibility, failure or indifference of broadcasters may well have been the major cause of the increase in the number of petitions. But we believe the events of the past two years have merely re-emphasized the need both to ensure that licensees remain conversant with and attentive to community problems throughout the license period, and citizens are encouraged to engage in more continuous dialogue with licensees in order to promote local resolution of complaints as they arise. This is the purpose of the announcements and this is why we believe them to be necessary.

17. Whether the announcements will have the effect desired by the Commission or whether they will have some undesirable effects can only be determined by actual experience. However, given the comments of various broadcasters regarding the importance of knowing the problems and needs of the service area for maintaining a successful station operation, we believe at least some good will result from the announcements. As for some of the projected ill-effects, the changes in the scheduling of the announcements discussed in paragraphs 28 and 31 will reduce the financial burden of airing the announcements and the risk that they will prove an annoyance and irritation to the public. The elimination of the reference in the announcements to sending comments directly to the Commission (see paragraph 38) will reduce the possibilities of the predicted undesirable effects upon the Commission's workload. It will also reduce the danger of letters being unduly delayed in Washington and not being sent to the licensee in time to permit effective changes in policy.

18. The fear that reacting to frivolous and crank comments received from listeners and viewers responding to the announcements will squander the resources of licensees and distract them from their primary task of programming to meet community needs, assumes that comments received will hamper rather than aid the licensee in better determining the problems and needs of his service area and/or the programming which can best deal with those problems and needs. While it is reasonable to assume that some listener and viewer comments generated by the announcements will be of a nature that might generally be classified as frivolous, to think that the majority of the responses will be of that nature is to cast grave doubts on the intelligence of the general citizen and his ability to communicate his opinions. We do not feel such a conclusion is justified; and, we assume that those licensees whose programming includes programs or program segments in which listeners participate or letters from listeners are read and dis-

cussed on the air, as well as those licensees who have long solicited comments from listeners or viewers through various on-air announcements, would agree.

19. We do not believe that either the new renewal announcements proposed in Part III of the Notice or the initiating of annual reporting for television licensees proposed in Part IV of the Notice make the announcements less necessary. The annual listing of problems and needs will, however, provide the interested viewer with a more current and better understanding of the licensee's conception of the problems and needs of the service area and his efforts to meet those problems and needs. This hopefully will in turn lead to more informed and relevant audience feedback, increased dialogue between viewer and licensee regarding problems and needs of the community, and the local resolution of complaints as they arise.

20. Finally, if there is a danger that broadcasters may feel compelled to yield to organized pressure groups without regard to the merits of their complaints, we suggest the danger is more real under present circumstances. With little or no dialogue occurring with potential petitioners until renewal time and with general audience feedback often not being continually solicited and received, it would seem more difficult to evaluate the representativeness of a complaint raised by a group who claims to speak for a significant segment of the community.

The Announcement as a Means of Ascertainment

21. Various parties assume it was the Commission's intention that the mere airing of the proposed announcements would totally fulfill the licensee's obligation to ascertain the problems, needs and interests of the community. Thus, for example, McClatchy says that replacing the familiar and natural methods of ascertainment with mandatory and artificial announcements will not contribute to meaningful dialogue. BEST maintains that while the announcement requirement is a satisfactory supplement to the ascertainment requirements of the Primer [2] it is not a satisfactory substitute. While the Primer requires the licensee to ferret out views and display initiative in seeking two-way communication, with the announcement requirement replacing the Primer requirement the licensee becomes merely a suggestion box. Urban Law thinks eliminating the Primer and substituting the announcements is to shift the burden of initiating and maintaining dialogue from licensee to community. Urban League maintains that abandoning the requirement that licensees demonstrate ascertainment of community problems would be to reverse a policy of many years standing and would be to seriously weaken, if not destroy the means by which the community can control the use to be made of the public airwaves. Lebanon feels that using the announcements as the only or major means of ascertainment is to destroy the Primer concept of continuing awareness.

22. NOW contends that elimination of the existing ascertainment requirements of the Primer would be particularly crippling to women,

[2] *Primer on Ascertainment of Community Needs*, 27 FCC 2d 650 (1971) (36 FR 4092).

since under the Primer, recognition of women as a significant group to be ascertained is practically guaranteed. Urban Law, United Church and Baldwin consider the requirement of submitting complaints and suggestions to the stations in writing to discriminate against the illiterate and the disadvantaged, and to make it unlikely that the busy community leader will spend time communicating with licensees, NAB argues that relying on reaction to such announcements would tend to undermine the random sampling feature of the Primer. CBS suggests that the Commission wait and see how things work under the Primer before instituting the announcement requirement, because direct contact of licensees with leaders and members of the public is to be preferred.

23. *Conclusions.* In proposing the announcement rule we never intended to imply that the airing of the announcements would totally fulfill the licensee's long standing obligation to make a positive, diligent and continuing effort to ascertain the tastes, needs and desires of the public in his service area (*En Banc Inquiry re: Programming*, 25 FR 7295 (1960)). We did in Part IV of the Notice propose a revision of the system by which a television licensee reports on the problems and needs of his community, a revision which would eliminate existing Part I of Section IVB of Form 303. However, the inclusion of Questions 3 and 6 in the proposed new Section IVB of Form 303 for television renewal applicants which was presented in the Notice (and the absence of any proposed new Section IVA of Form 303 for radio renewal applicants) reflected our intention that the announcements would be only one means by which television licensees ascertained community needs. Thus Question 3 of the proposed new Section IVB of Form 303 asked the television renewal applicant to describe the methods by which during the past three years he determined the problems and needs of the public served by his station, while Question 6 asked if the applicant planned during the next renewal period to change the methods described in the answer to Question 3 for determining problems and needs, and, if so, to describe these changes.

24. We agree with the objections to relying on the announcements as the sole method of ascertainment raised in the filings. Such reliance would indeed shift the burden of initiating and maintaining dialogue from licensee to community and would reverse a policy of many years standing. Such reliance would also result in a bias in the sample of the community whose views were ascertained, such bias to include discrimination against the illiterate. And, as CBS indicates, direct face-to-face contact between licensee and leaders and members of the public is certainly to be preferred. Thus we cannot emphasize too strongly that the announcements are designed to supplement and not replace the existing means by which community problems and needs are presently being determined, including face-to-face contacts. Further discussion regarding ascertainment requirements for television licensees may be found in Section IV of this Report and Order in paragraphs 122–131, 177–185. Radio licensees are pending the outcome of our formal Inquiry regarding ascertainment (Docket 19715), still subject to the requirements of Part I of Section IVA of Form 303

and the *Primer on Ascertainment of Community Needs* issued in February 1971.

Time of Day of the Announcements

25. In the Notice the Commission specifically welcomed comments on the appropriate time periods for airing the announcements and on whether all or merely a substantial percentage of the announcements should be required within the proposed specified periods (8–10 P.M. for television and 7–9 A.M. for radio) of maximum viewing or listening. Several parties suggest that the time periods now used for announcements notifying the public of the filing of renewal applications (7–10 P.M. for television and 7–10 A.M. for radio) be used for the eighth day announcements. CBS recommends 6–11 P.M. for television and 6–10 A.M. for radio while Dempsey & Koplovitz suggests 6–11 P.M. for television with rotating 2 hours segments (e.g., 6–8 P.M., then 7–9 P.M., then 8–10 P.M., then 9–11 P.M. and then start again with 6–8 P.M.). Corinthian suggests 6–11 P.M. for television and North Carolina recommends 6–11 P.M. for television and 7–10 A.M. or 4–7 P.M. for radio.

26. Other parties suggest that a certain percentage of the announcements be aired during non-prime time hours. NBC recommends that at least 50% of the announcements be aired between 6–11 P.M. for television and 7–10 A.M. or 3–7 P.M. for radio, and the remainder be aired anytime between 8 A.M. and 1 A.M. Cohn & Marks favors 50% between 5:30 P.M. and midnight for television and 7–9 A.M. for radio, and the rest anytime between 5 A.M.–midnight. McClatchy suggests that a certain percentage (e.g., one-third) of the announcements be in prime time and the rest anytime. Plough says that only "a certain percentage" should be aired during prime time. Baldwin recommends that every fourth or fifth television announcement be in daytime or late evening. Paducah submits that the announcements should be scattered throughout the day on a rotating basis (9–11 A.M., 11 A.M.–1 P.M., 1–3 P.M., etc.) KRGV–TV recommends that the announcements be aired on a Run of Schedule (ROS) basis from sign-on to sign-off. BEST suggests that one-half of the announcements should be in prime time and one-half in the remaining hours, allocated among the time periods set forth in station rate cards. In Reply Comments, Sonderling specifically opposes this suggestion.

27. Fetzer, McClatchy, Gill and Paducah cite the need for the eighth day announcement Rule to contain provisions for emergencies or preemption by special programming. WRVB–FM believes special consideration should be given to non-profit religious stations.

28. *Conclusions.* We consider it desirable to both scatter the announcements throughout the day and yet ensure a substantial percentage of the announcements are aired during the periods of maximum viewing or listening. Thus, as indicated in new Section 73.1202 of the Commission's Rules (included as Appendix C of this Report and Order), we have decided on the following time periods for airing the announcements:[3]

[3] At a future date each licensee will receive a copy of the appropriate schedule below in the form of a chart which could be placed in convenient studio location (i.e., a bulletin board in a control room) for easy reference.

(a) for commercial television stations—the announcements shall alternate between the 6 P.M. to 11 P.M. time periods (5 P.M. to 10 P.M. Central and Mountain Time) and the following two-hour time periods in the following rotating order: 7 A.M. to 9 A.M., 9 A.M. to 11 A.M., 11 A.M. to 1 P.M., 1 P.M. to 3 P.M., 3 P.M. to 5 P.M., 5 P.M. to 7 P.M., 10 P.M. to midnight.

(b) for standard and FM broadcast stations—the announcements shall alternate between the 7 A.M. to 9 A.M. and/or 4 P.M. to 6 P.M. time periods and the following two-hour time periods in the following rotating order; 5 A.M. to 7 A.M., 9 A.M. to 11 A.M., 11 A.M. to 1 P.M., 1 P.M. to 3 P.M., 5 P.M. to 7 P.M., 7 P.M. to 9 P.M., 9 P.M. to 11 P.M., 11 P.M. to 1 A.M. For stations which neither operate between 7 A.M. to 9 A.M. nor between 4 P.M. to 6 PM., the announcements shall alternate between the first two hours of broadcast operation and every other two-hour time period during the broadcast day in rotating order beginning with sign-on.

29. We agree with those parties who cite the need for the announcement Rule to contain provision for emergencies and thus have included in Section 73.1202 a provision that if an emergency arises which precludes the airing of the announcement at the scheduled time, the announcement shall be aired on the day following the ending of such emergency at the identical time or during the time period which the rotating order specified in the Rule requires. We do not believe, however, that any special consideration for non-profit religious stations is necessary or warranted.

Frequency of the Announcements

30. A number of parties think that every eighth day is too often to air the announcements, while several others feel the announcements should be aired more frequently than every eighth day. Recommended alternatives range from announcements four times a year (CBS would broadcast them weekly during a single month while Cohn & Marks would broadcast them every three months) to announcements every third day (proposed "at least at the outset" by BEST and specifically opposed by Sonderling in Reply Comments). Various parties recommend once a month or every 30 days. NBC suggests every 60 days, KUTV every two months and Corinthian twice a month. KRSN submits that a requirement of once a week to cover every day of the week would be easier to comply with than every eighth day, while Flower City recommends the announcements be required the 10th, 20th, and 30th days of each month. Storer proposes that only eight 30-second spots be aired each year, these during the two-week period following the filing of the Annual Report. Basic and Fetzer maintain the frequency of the announcements should be a matter of licensee discretion. Plough says the Commission could prescribe a minimum number of announcements each month with a requirement of a certain percentage in prime time, and then leave the rest of the scheduling to the individual station. NBC maintains that up to 25% of the announcements should be permitted to be by publication in a local newspaper in lieu of broadcasting announcements on that day or during that week.

31. *Conclusions.* After careful consideration of the options available and the comments received, we have decided to require the announcements every fifteenth day, rotated among the various time periods spec-

ified in paragraph 28. We believe this strikes a reasonable balance between the need for frequency sufficient to ensure that the announcements are heard by the vast majority of listeners and viewers, with redundancy adequate to stimulate dialogue between audience and licensee.

Text of the Announcements

32. Various parties think the proposed sample announcements [4] are too lengthy, but there is considerable disagreement regarding just how long it takes to read them. The estimates range from 60 seconds to 120 seconds. Several alternative texts are submitted, most of which include changes discussed below.

33. STATIC and United Church recommend longer announcements which would emphasize particular aspects of a station's public interest obligations, including fairness, equal employment and solicitation of public service announcements. These longer announcements would be designed to educate the public rather than to merely ask for their comments and suggestions.

34. Some parties maintain the text of the announcements should be a matter of licensee discretion. BEST suggests that the Commission permit broadcasters to experiment and put their minds to producing interesting announcements. It contends that packaging spots or allowing community groups to present the announcements would prove more effective than repeating the identical announcement on all stations over a long period of time. Sonderling submits that the full, formal repetition proposed will make the audience mentally tune out but, in Reply Comments, opposes BEST's suggestion regarding experimentation. Plough maintains that the text is a bureaucrat's dream, but it won't sell.

35. BEST says the announcements should indicate the last renewal application is also available for public inspection. Dempsey & Koplovitz want the announcements to clarify the period covered by the last Annual Report. Gill, KRGV–TV and Nebraska feel the tone of the sample announcements suggests only criticism, and ask the Commission to make it clear in the announcement that compliments as well as criticisms and suggestions are welcomed.

36. A number of parties urges the deletion of the reference to "public property." Cohn & Marks does not think the phrase gives significant information. Lebanon and others maintain the phrase may be interpreted by some in a manner which would precipitate undesirable and even violent actions. NAB, NBC, Dempsey & Koplovitz and KUTV believe the phrase raises complex legal questions regarding the ownership of the other and implies broadcasters are common carriers. Other parties ask that the reference to sending complaints and suggestions directly to the Commission be deleted because it contradicts the Commission's

[4] Sample announcements incorporating the information required by the proposed eighth day announcement Rule were included in the Notice. Most parties who commented on the text of the announcements assumed that stations would air the sample announcements as written.

aim of promoting local resolution of differences between a licensee and members of the local community.

37. Baldwin notes that viewers are not invited to discuss or comment on the list of problems and needs that television licensees will be required to submit in the Annual Report. He is among several parties to suggest that both radio and television announcements be geared to the community dialogue and ascertainment issues rather than to matters of programming preference. Sonderling and Dempsey & Koplovitz, for example, recommend that the requirement in (d) for radio and (e) for television in the proposed rule be amended to clarify that the "adequacy of performance" refers to performance in meeting responsibilities to ascertain problems and needs and to program to meet them. Baldwin suggests that licensees be encouraged to adjust programming based upon the feedback received from the announcements, otherwise they may be reluctant to deviate from promises made in the last renewal application because of fear of promise vs. performance criticism. Baldwin also recommends pre-testing of the announcements before the announcement Rule is finalized.

38. *Conclusions.* New Section 73.1202 and the sample announcements contained in the Rule (see Appendix C) have incorporated many of the changes suggested in the filings. The required announcement for television licenses now clarifies the time period covered by the annual listings of problems and needs. The announcements for both radio and television more clearly solicit favorable as well as unfavorable feedback by inviting "suggestions or comments" rather than "opinions, criticisms or suggestions." The invitation to send comments directly to the Commission has been deleted in order to further promote local resolution of complaints and differences. The phrases "adequacy of performance" and "public property" have also been deleted in order to eliminate possible confusion regarding their meaning.

39. We agree with Baldwin that licensees should carefully evaluate the feedback received from the announcements, and, whenever they deem it appropriate, consistent with their overall ascertainment efforts (see paragraph 24), should not refrain to implement any useful recommendation that may have been suggested by viewers or listeners solely because of a fear of "promise vs. performance" criticism. We do not, however, think Baldwin's suggestion of pre-testing the announcements is practical, given the problems of deciding which stations should have to air the announcements, for how long, and how and by whom their effectiveness is to be measured and evaluated.

40. With respect to the recommendation that the text of the announcements should be a matter of licensee discretion and that licensees should be allowed to experiment with the announcements, we point out and emphasize that the sample announcements included in the Rule are nothing more than sample announcements which incorporate the requirements of Section 73.1202. Should any or all licensees wish to compose other wording and experiment with the method of presentation in order to help make the announcement "sell" or to convey additional information, they are encouraged to do so, as long as the requirements of Section 73.1202 are met.

Comments and Suggestion File

41. While various parties, including the NAB, specifically indicate they are not totally opposed to the concept of retaining a comments and suggestion file, other parties express total opposition. NBC, Basic and Fetzer maintain the Commission should give a more precise rationale before imposing such a requirement, especially since the letters would be retained as part of a public file which is not presently being used or examined. WRAG says it has never had a request to see its public file, while Corinthian cites a NAB survey of 1236 stations which found that during a given year a total of only 65 requests was received by all stations to see local public files.

42. CBS thinks it is the attention paid to letters and the station's responses that may contribute to a desired dialogue between citizen groups and licensees, not the mere retention of letters in a public file. NBC and CBS suggest the only conceivable purpose of the file would be to facilitate license challenges and petitions to deny by providing a discovery procedure to licensees' business files, and Plough contends that the file would give a challenger an undue advantage in a comparative hearing. NBC, CBS, and Plough are joined by Metromedia and Heart O'Wisconsin in expressing a fear that the file would deter stations from airing programs responsive to problems and needs. Because such programs often deal with controversial issues and attract far more correspondence than would something more bland, some broadcasters will decide upon bland programming to avoid a tremendous volume of letters in the station file. Plough predicts licensees will begin to solicit "orchid" letters to balance out any complaints received.

43. Some parties maintain the file may inhibit communications between licensee and public. CBS says the importance of anonymity for a free flow between licensee and public is recognized in the Primer, and fears that the supposedly private letters could be used for harassment of citizens. McClatchy feels that comments and complaints should remain matters solely between the licensee and the writer and it is not the public's role to second guess licensee judgment in the handling of such matters. Flower City expects people to be reluctant to write without assurances of confidentiality.

44. CBS and NBC argue that placing letters in the public file would constitute publication in violation of the authors' rights. CBS submits that under common law copyright the writer should have the exclusive right to permit copying of the letter, but under the proposed rule, anyone could copy the letter from the public file. NBC contends the average writer would not be aware that he must specifically request confidentiality to retain his author's rights and thus he would not ask for same. Plough, Basic, McClatchy and Fetzer point out that complaints sent to the Commission and resolved there are placed in a private file and are not available for public inspection.

45. The burden of maintaining the proposed comments and suggestion file is emphasized in a number of filings. Reference is made to the burden upon personnel, space, equipment (including duplicating facilities needed for duplicating letters while they are being circu-

lated), and finances. CBS, for example, submits that WCBS–TV might receive 37,000 letters a year while Metromedia contends that any major market station could reasonably expect 60,000 letters a year. Storer maintains that if correctly done, an average of only 30–50 letters can be classified and summarized in a day. Lebanon is among several parties who feel the retention of the file would prove especially burdensome for small radio stations. WUAB cites the particular need for relief for UHF telecasters from administrative burdens.

46. A seven-year retention period for comments and suggestions is considered too long by various parties. ABC, WSAU–TV and KAKC think a two year retention period would be sufficient since complaints over two years old are dated, stale and essentially irrelevant. Plough recommends retention for only the past license period (a maximum of three years) while Corinthian recommends retention for one year or until the grant of the next renewal, whichever is longer. NBC maintains that even a one year retention period would prove much too burdensome.

47. NBC also suggests it is unclear just when the communication would have to be placed in the public inspection file and asks the Commission to clarify whether a copy of the letter has to go into the file immediately or only after reading, circulation and action has taken place. Basic, Fetzer, McClatchy and Plough fear that internal memoranda would have to be included in the public file in order to present a complete picture of issues raised in complaints or comments. The first three parties also are concerned that the proposed rule does not exclude business correspondence, as opposed to comments from the public, from being placed in the public file.

48. Comments regarding the requirement of breaking down the letters into subject categories were also received. Some parties suggest the requirement is unnecessary. NBC, for example, says that putting the letters into chronological order would facilitate public inspection and would be preferable to a complex system of categories which would be a rather unreasonable burden. Flower City suggests that filing by categories would be solely for the convenience of the public even though the purpose of the letters is to help the licensee to respond to community needs. BEST, however, supports categorization of the letters and submits that six categories may not be exhaustive and thus a seventh "miscellaneous" category should be added. BEST also thinks there should be a cross-referencing system to facilitate public inspection of the comments.

49. United Church, BEST and Baldwin oppose the Commission's proposal to exempt obscene and defamatory letters from being placed in the file. Baldwin says giving broadcasters the opportunity to exclude letters they feel should be excluded because of "the special nature of its content" would enable them to make self-serving deletions by arbitrarily labeling derogatory letters obscene. United Church maintains there is little risk of social injury from the file since children are unlikely to review it, and since the file would have little appeal for those of prurient interests. Presumably there would be no great audience for defamatory matter and republication will not be privileged under libel laws.

50. Urban Law thinks licensees should be required to respond promptly and completely to all comments, should be required to propose meetings between interested correspondents and representatives of the licensee and should be required to maintain in the public file records of action taken in response to particular letters.

51. *Conclusion.* As will be discussed in Section IV of this Report and Order (paragraph 188) we have eliminated from new Section IV of Form 303 the proposed question regarding the comments and suggestions file. We have decided, however, after considerable discussion (focused primarily on the matter of retention of letters by radio licensees) to require radio and television licensees to retain in their public file written comments and suggestions received concerning operation of the station. (The requirement for radio will be on an experimental basis. At some appropriate time, probably about one year after the retention requirement has taken effect, we will ask our re-regulation task force to evaluate the usefulness of the requirement as it pertains to radio, and to recommend its continuation, modification or elimination.) Although this file would not normally be subjected to Commission scrutiny, it would be available to permit an interested member of the public to better determine the nature of community feedback being received by the licensee and to have a better indication of the extent to which his opinions regarding community problems and needs and/or the licensee's broadcast operation might be shared by other members of the community. We certainly share the contention of CBS that it is the attention paid to letters and the station's answers that may contribute to the desired dialogue rather than the mere retention of letters in a public file. But in order for members of the public and in certain instances, as for example, if a petition to deny is filed, for the Commission to have some better idea of the nature of the station's response to community feedback, the nature of the feedback must be available.

52. We do not think we should refrain from requiring stations to retain a file of comments received from listeners or viewers on the grounds that such a requirement would deter stations from airing programs to meet problems and needs because of the fear of controversy. There is no evidence to indicate that this would happen and we do not believe broadcasters would avoid their long-standing responsibilities of dealing with significant issues of public importance and with the problems and needs of the community merely because of the fear of receiving and being required to retain some critical letters.

53. The concern that the file may, in certain instances, inhibit communications between licensee and members of the public because of a citizen's possible desire for anonymity and fear of harassment was the reason for our including in Section 73.1202 a statement to the effect that the listener's or viewer's letter would not be made publicly available if the listener or viewer wished the communication to remain private. We do not think that placing letters in the public file constitutes violation of the author's rights, especially with the existence of an option available to the author of having his letter put in the public file or having it remain confidential.

54. The potential undue burden of retaining an indeterminate number of letters for seven years coupled with the fact that comments over three years old are usually at least somewhat dated, has led us to shorten the required retention period from seven years to three years. We have, however, retained a requirement that television licensees (who presumably will receive far more letters than radio licensees) file the letters into two subject categories: programming and non-programming. This should be more useful than mere chronological filing to anyone examining the television file, yet should not be as burdensome to the television licensee as would be the filing of letters into seven subject categories. A cross-reference system is not being required because we believe it is not essential and would place an unreasonable burden on the licensee.

55. We do not consider it necessary, at least until experience suggests otherwise, to specify exactly when letters must be placed in the public file, but we would expect letters would be placed in the file within a reasonable period of time from the date on which they were received. It was not our intention to require either internal memoranda or business correspondence to be placed in the file and Section 73.1202 has been clarified to provide that only written comments received from members of the public must be retained. We do not think that inclusion of internal communication in the file would ordinarily be necessary to present a complete picture of issues raised by listeners or viewers, but should licensees consider otherwise, they, of course, have the option of putting such materials in the file.

56. We have retained the exemption for obscene and defamatory letters and leave it to the good faith judgment of the licensee as to whether the letter is defamatory or obscene. If, however, a licensee is found to be making self-serving deletions by arbitrarily labeling derogatory letters obscene, we will deem the rule to have been violated.

57. With regard to to Urban Law's recommendations that licensees be required to respond promptly and completely to all comments, to maintain in the public file records of actions taken in response to particular letters, and to propose meetings between interested correspondents and licensee representatives, we believe imposition of such requirements to be both inappropriate and unenforceable. But we again encourage licensees to carefully evaluate all feedback received from their audiences and to continually engage in dialogue with members of their communities concerning the problems and needs of the community and the kind of broadcast services which can help meet those problems and needs.

II. PROPOSED RULE MAKING TO AMEND SECTIONS 1.516(e)(1), 1.539(a), 1.580(i) AND 1.580(j) OF THE COMMISSION'S RULES RELATING TO THE TIME FOR FILING APPLICATIONS FOR RENEWAL OF BROADCAST STATION LICENSES, PETITIONS TO DENY SUCH APPLICATIONS, OPPOSITIONS TO SUCH PETITIONS AND REPLIES TO SUCH OPPOSITIONS

The Commission Proposal

58. In Section Two the Commission proposed (a) to change the deadline for filing applications for renewal of broadcast station licenses from 90 days prior to the expiration date of the license to four

months before that date, (b) to not grant extensions of time in which to file petitions to deny renewal applications unless all parties concerned, including the renewal applicant, consent to such request or unless a compelling showing can be made of unusual circumstances warranting deviation from that policy, and (c) to lengthen the time for filing oppositions to petitions to deny to 30 days after the petition to deny is filed and for filing replies to oppositions to 20 days after the opposition is filed. The Commission stated that the earlier filing of the renewal application and the retention of a cutoff date for filing petitions to deny of the first day of the last full calendar month of the expiring license [5] will provide community groups interested in the performance of local stations with ample time to examine renewal applications, to discuss problems with licensees, and, if desired, to file timely petitions to deny. This will eliminate the necessity for seeking last minute extensions of time which are disruptive of the Commission's processes and make it possible for the Commission to adopt a policy of not granting requests for extensions based on a claim of negotiations with the station unless all parties concerned consent to such requests. The Commission stated that this course, coupled with the notices of filing of renewal applications proposed in Part Three of the Notice, appears to represent a reasonable balance between necessary safeguards for the expression of the public interest by community groups and the need for orderly application processing. The amendment of Section 1.580(j) of the Rules to give more adequate time for the presentation of oppositions to petitions to deny and replies to oppositions had been urged on various occasions by licensees and citizen groups. The Commission indicated that such amendments seemed warranted, but in the interest of avoiding unnecessary delay in renewal processing, the expanded time for filing replies to oppositions will commence from the date of the filing of the opposition rather than (as provided in the present Rules) from the date on which oppositions are due.

The Change of Filing Dates

59. Fetzer and McClatchy maintain that a four-month filing period is too long, that under the new plan stations could be judged on the basis of obsolete information and would be faced with the necessity of frequent and perhaps costly amendments to the application, and that the additional thirty days given for examination of the renewal application would not affect the practice of citizen groups waiting until the last minute to begin negotiations with stations. They recommend that the Commission require renewal notices to begin two or three months before the renewal expiration date (rather than five months before, as proposed) and retain the present filing date. KRGV–TV feels three months is adequate time for someone conscientious to file a petition to deny and that the extra month will simply invite "malcontents" to comment against stations and against society in general.

60. Corinthian and Flower City believe that the new filing dates should be accompanied by an earlier announcement of the composite

[5] In the case of late filed applications, the cutoff date would be the 90th day after the Commission gives public notice of acceptance of the filing of the application.

week. This will give February 1 licensees sufficient time to complete their application by their new October 1st filing deadline. Flower City suggests an announcement in June or July. Corinthian mentions no specific date but contends that even with the present filing deadlines, the Commission should announce the composite week at an earlier date. United Church states that merely lengthening the period for examining renewal applications is not enough. The proposal would, however, be workable if the Commission adopted the rulemaking requested by the National Citizens Committee (RM–1475) to make certain program records available, including some logs. Groups would then be able to compile data well in advance of filing dates and negotiate knowledgeably and concretely. If a petition to deny were then filed, it would be supported by detailed facts as the Commission has ruled is necessary (*Black Identity Education Association*, 21 RR2d 746). United Church contends that groups are unable to provide such facts or negotiate effectively without increased data regarding station performance.

61. United Church also asks the Commission to require licensees to furnish copies of specified parts of public records within 24 hours, at a cost not to exceed 5 to 10 cents per page. Past problems with obtaining copies of renewal applications are outlined with United Church maintaining it takes a minimum of two to three weeks to get a copy of a renewal application from Washington. BEST supports a requirement for duplicating materials at cost, suggesting that the requirement be limited only to those stations which have duplicating facilities on the premises. Sonderling in Reply Comments opposes such a requirement.

62. Opposition to the Commission's intention not to grant extensions for filing petitions to deny unless all parties, including the renewal applicant, consent or unless a compelling showing can be made of unusual circumstances justifying the extension is raised by BEST, United Church, Urban Law and NAEB. BEST argues that the Act is concerned with the public interest, not with the licensee's rights to a prompt renewal or the Commission's orderly processes; that no concrete showing has been made of a disruption of the Commission's practices by granting extensions; that in the vast majority of cases where extensions have been granted, the result has been to avoid petitions and litigation and to reach amicable accords that usually contain provisions to assure continuing dialogue in the future; that requiring community groups to obtain consent is an unlawful discrimination against groups since no other type of petitioner is required to obtain such a consent as a matter of law; and that the Commission is illegally delegating de facto authority to licensees to make a determination as to regulatory matters which the Act says are the Commission's responsibilities, and is thus putting the licensee in a conflict of interest position. Urban Law contends that the inconvenience caused to the licensees by processing delays are far from sufficient to justify a procedure which would endanger the rights of communities to be heard.

63. In its Reply Comments NAEB supports the contention of BEST and Urban Law that the Commission should not permit the licensee or any other party to "the suit" to determine whether a request for an extension should be treated favorably by the Commission. NAEB

contends that the Commission should decide upon extension requests on the basis of the facts of specific cases, not by a flat proscription. Thus a preferable procedure would be to merely establish a cut off date and make ad hoc judgments regarding whether good cause is shown for an extension. The Commission might wish to set forth the particular standards that it proposes to apply in rendering its ad hoc decision, so that all parties would be alerted to criteria that must be satisfied.

64. United Church recommends a blanket rule or policy of automatically granting a thirty-day extension whenever written statements or affidavits are filed before the cutoff date notifying the Commission of an intention to file a petition to deny. This would provide a thirty-day "cooling off period" similar to that in labor-management disputes and would permit negotiations to take place right up to the cutoff date, thus increasing the chances of mutual understanding and settlement. United Church claims that its experience disproves the Commission's contention that if parties are engaged in good faith negotiations, licensees, will consent to extensions. BEST in Reply Comments says the United Church proposal is preferable to the Commission proposal. Sonderling in its Reply Comments suggests the Commission retain its current 60-day filing deadline and adopt the United Church proposal of an automatic 30-day extension upon the submission of a verified notice of intention to file a petition to deny from a "party of interest" who is engaged in good faith negotiations with the licensee.

65. Several parties spoke to the question of the cutoff point. NBC suggests the cutoff be 45 days prior to expiration rather than 30 days because the new 30-day period for oppositions and 20 days for replies will mean that, allowing for mailing time, the period for pleading will terminate almost one month after date of expiration. Metromedia notes the same problem and says the Commission should consider the advisability of changing the cutoff date so that if a petition to deny is filed, all pleadings will have been filed by the license expiration date. Gill, Storer and Cohn & Marks recommend the Commission amend Section 1.587 to provide that the cutoff date for formal petitions be applied to informal petitions, absent good cause. Cohn & Marks suggest there is even more reason to apply a cutoff date for informal comments which require no expertise and can be readily prepared and timely mailed. Storer and Gill also recommend a rule change to make it unnecessary for the Commission to consider late filed petitions as informal objections.

66. No comments oppose the lengthening of the period for filing oppositions to petitions to deny from 10 days to 30 days. With regard to lengthening the time for filing replies to 20 days, however, Dempsey & Koplowitz suggests that 10 days, or at most 15 days would be sufficient time for filing replies, while BEST submits that the Commission might wish to permit 30 days, especially if it is going to become more strict in its application of the cutoff date for filing petitions and if it is going to require the consent of the opposing party before granting extensions to file oppositions and replies. KAKC, GE, WSAU–TV, ABC, Urban Law and BEST indicate that extensions for filing oppositions and replies should be granted for good cause.

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67. BEST and Urban Law argue that replies should be due 20 days from the date on which oppositions are due, not 20 days from the date on which the opposition is filed. BEST contends that otherwise the licensee would have undue control of the timing, as for example, by filing during holiday periods or holy days. Urban says such a change would cause little inconvenience to the broadcaster, and little time would be lost since few oppositions would be filed much before the deadline date.

68. Plough suggests that the Commission rules should provide for something analogous to a motion to dismiss for failure to state a claim. After examining the renewal application and the petition to deny the Commission could either grant the motion or dismiss it. Only after the petition were dismissed would the full pleading cycle (including replies and oppositions) need to be followed.

69. *Conclusions.* We believe it desirable to implement the proposed change of filing dates for renewal applications from 90 days prior to the expiration date to four months before that date. As stated in the Notice this will provide community groups interested in the performance of local stations with ample time to examine renewal applications, to discuss any problems with licensees, and, if desired, to file timely petitions to deny. After careful re-examination of the appropriate renewal forms, we do not think the filing of renewal applications thirty days earlier than at present will result in stations being evaluated on the basis of obsolete information. The dates by which the composite week will be announced each year and on which the Annual Reporting Form in Appendix D will be due from commercial television licensees (See Section IV of this Report and Order) will be announced after clearance of the new Annual Programming Report by the Office of Management and Budget (see paragraph 214).

70. The National Citizens Committee's petition for rulemaking (referred to by United Church) to make certain program records, including program logs, available to the public is the subject of a Notice of Proposed Rulemaking issued January 8, 1973 (Docket 19667). The Notice refers to the possibility of obtaining from a convenient local depository, such as the local public library, copies of program logs and related station documents.

71. With respect to the objections of several parties regarding our intention not to grant extensions for filing petitions to deny unless all parties, including the renewal applicant, consent or unless a compelling showing can be made of unusual circumstances, we think it appropriate to restate our thinking regarding extensions for filing petitions to deny which was outlined in the Notice.

72. It seems to us reasonable to assume that regardless of when we fix the deadlines for filing renewal applications and for filing petitions to deny, we will probably continue to receive requests from citizen groups for extensions of time to file petitions to deny. Presumably these requests will continue to be based either on the grounds that negotiation is taking place and agreement will soon be reached which will eliminate the need for filing a petition, or that unusual circumstances have arisen which make it impossible for an interested party to timely file. Given these realities we have decided that the most reasonable

and proper course for us to pursue is to do the following: (1) To encourage continuous dialogue between community and licensee throughout the license period through the new announcements required by new Section 73.1202. (2) In the case of television, to provide the public with increased information regarding station programming and each licensee's conception of problems and needs by requiring annual reporting of composite week programming and the annual listing of problems and needs. (These requirements were proposed in Part IV of the Notice and are discussed in Section IV, paragraphs 99–155 of this Report and Order.) (3) To require licensees to file their renewal applications four months prior to the expiration of their licenses and three months prior to the cut off date for filing petitions to deny. This will ensure adequate time for any interested party to (a) examine a renewal application, (b) discuss any problems with licensees and determine if negotiation is desirable and possible, and (c) decide to file a timely petition to deny, to not file a petition, or to come with the licensee to the Commission and request an extension of time to continue negotiations. (4) To remind interested parties of the pending renewal and the filing of the renewal application through the pre-filing and post-filing renewal announcements discussed in Part III of the Notice and this Report and Order. (5) To continue to consider on an individual ad hoc basis requests for extensions of time to file a petition to deny on the grounds of compelling unusual circumstances preventing timely filing, but to make it clear that the circumstances must, in fact, be compelling and unusual before the extension is granted. (6) To grant extensions of time for filing petitions to deny on the grounds that negotiations are taking place and settlement is near only when both licensee and potential petitioner both affirm that, in fact, negotiation is taking place and settlement is near. If one party claims that negotiations have broken down or never have begun and thus settlement is unlikely, we do not see how we can grant an extension based on entirely the opposite premise since negotiation and successful settlement requires the constructive participation of both licensee and potential petitioner.

73. We do not consider requiring agreement of all parties that negotiation is in fact taking place and therefore an extension of time for filing a petition to deny is warranted to be discriminatory against citizen groups any more than it is discriminatory against licensees. Nor do we believe requiring such agreement means we have delegated to the parties our authority to grant extensions. As we have indicated in paragraph 72, we think it makes little sense to grant extensions on the grounds that negotiations are taking place and settlement is near, without agreement and acknowledgement from both parties that this is in fact true.

74. As to NAEB's suggestion that we merely establish a cut off date and make ad hoc judgments regarding whether good cause is shown for an extension, we repeat that this is what we will continue to do with requests for extensions based on unusual compelling circumstances. But, we will no longer continue to make ad hoc judgments that extensions are warranted because negotiation is taking place and settle-

ment is near without affirmation and agreement from all concerned parties that this is in fact true.

75. United Church suggests a thirty-day "cooling off" period in addition to the proposed earlier filing date for renewal applications, thus giving citizen groups four months from the filing of the renewal application to file a petition to deny instead of two months as at present. We believe that the proposed three month period is long enough for community groups to examine the renewal application; to discuss problems with licensees and to determine if negotiations are desirable and possible; and to decide to file a timely petition to deny, to not file any petition or to come with the licensee to the Commission and request an extension of time in which to negotiate. Thus we will not adopt the United Church suggestion. Nor will we adopt Sonderling's counter-suggestion of a thirty-day "cooling off" period without an earlier filing date for renewal applications. This would mean continuation of the present situation whereby groups will have only sixty days between filing date and the deadline for filing petitions, and less than that for deciding whether negotiations which may have been undertaken are going to be successful and whether drafting a petition is necessary. Experience has demonstrated that the present situation is not satisfactory and changes are needed.

76. To move up the cut off date, as NBC suggests, from thirty days before expiration to forty-five days before expiration would negate the full effectiveness of moving up the date for filing renewal applications. Under the NBC proposal, groups would have only seventy-five days instead of ninety days between renewal filing and the cut off date. Thus we will not adopt the NBC recommendation and will retain the cut off date of the first day of the last full calendar month prior to expiration. We will also not apply a cut off date for informal comments because we want to be able to hear from the public at any time and because the filing of informal comments has not proven to be any problem.

77. With respect to lengthening the periods for oppositions to petitions to deny and replies to oppositions, we consider the proposals of thirty days for oppositions and twenty days for replies to be reasonable. But in the interests of consistency with other Commission filing requirements, Section 1.580(j) will provide that replies will be due twenty days from the date on which the opposition is due or from the date on which it is filed, whichever is longer. The change from our proposal should be of little consequence since few oppositions are filed much before the filing date.

78. Finally, we will not adopt Plough's suggestion of something analogous to a motion to dismiss for failure to state a claim since little time would be saved by the process if the motion were upheld and time would actually be lost if the motion were not upheld, and since we would normally be reluctant to make a finding regarding a petition to deny without benefit of replies and oppositions.

Dates on Which New Filing Dates Should Take Effect

79. The Commission invited comments as to which should be the first group of renewal applications to which the new filing deadlines

should apply. Basic, McClatchy and Fetzer suggest that if the announcements provided in Part One of the Notice are not adopted, six months notice would be adequate, but if they are adopted, one year notice should be given to permit testing the effectiveness of the announcements which are the premise for the rules under discussion. Corinthian says the Commission should provide at least six months notice, while BEST merely indicates that the Commission should make it clear that application of the rule would be prospective and would not affect extension requests already pending at the time of adoption. Urban Law says the Commission should not apply the rule to applications now before it or applications being challenged on appeal, otherwise the entire backlog of pending applications would be delayed and substantial revisions of petitions to deny would be necessary.

80. *Conclusions.* Eight months notice will be given to the first group of licensees to which the new filing dates will apply.

III. PROPOSED RULE MAKING TO AMEND SECTION 1.580 (c), (d) and (m) AS TO NOTICES OF THE FILING OF RENEWAL APPLICATIONS

The Commission Proposal

81. In Section Three of the Notice the Commission proposed to amend Section 1.580 (c), (d), and (m) of the Commission's Rules to provide the following:

> During the period beginning on the first day of the sixth full calendar month prior to the expiration of a broadcast station license to the date on which the renewal application is filed, all applicants for the renewal of station licenses shall broadcast the following announcement every eighth day.
>
> The frequency/channel on which this station operates is public property. On (date of last renewal grant) we were granted a three year license by the Federal Communications Commission to operate this frequency/channel in the public interest, convenience and necessity.
>
> Pursuant to the provisions of the Communications Act of 1934, as amended, notice is hereby given that the broadcast license of Station (*call letters, city, and state*) will expire on (*date of expiration*) and that we are required to file with the Federal Communications Commission, no later than (*a date 120 days prior to the expiration date*), an application for license renewal.
>
> A copy of this application will, upon filing with the Commission, be available for public inspection at our business office (*address*) during our regular business hours of — A.M. to — P.M. Monday through Friday. The renewal application will include reports by this station regarding its performance during the last three years, analysis of complaints and suggestions we have received from the public during the past three years and projections of our programming during the next three years.
>
> Members of the public who desire to bring to the attention of the Federal Communications Commission facts concerning whether this station has operated in the public interest and/or facts relating to our renewal application will have until (*date thirty days before expiration*) to file formal comments and petitions. The Commission welcomes informal comments at any time.
>
> Further information regarding the Commission's process of renewing broadcast licenses and deadlines for relevant filings by both broadcasters and the public is available at our business office (*address*) or may be obtained from the Federal Communications Commission, Washington, D.C. 20554.

During the period beginning on the date in which the renewal application is filed to the first day of the last full calendar month prior to the expiration of the license, all applicants for the renewal of station licenses shall broadcast the following announcement every eighth day:

The frequency/channel on which this station operates is public property. On (*date of last renewal grant*) we were granted a three year license by the Federal Communications Commission to operate this frequency/channel in the public interest, convenience and necessity.

Pursuant to the provisions of the Communications Act of 1934, as amended, notice is hereby given that the broadcast license of Station (*call letter, city and state*) will expire on (*date of expiration*) and that we have filed with the Federal Communications Commission an application for license renewal.

A copy of this application is available for public inspection at our business office (*address*) during our regular business hours of — A.M. to — P.M. Monday through Friday. The renewal application includes reports by this station regarding its performance during the last three years, analysis of complaints and suggestions we have received from the public during the past three years, and projections of our programming during the next three years.

Members of the public who desire to bring to the attention of the Federal Communications Commission facts concerning whether this station has operated in the public interest and/or facts relating to our renewal application have until (*date thirty days before expiration*) to file formal comments and petitions. The Commission welcomes informal comments at any time.

Further information regarding the Commission's process of renewing broadcast licenses and deadlines for relevant filings by both broadcasters and the public is available at our business office (*address*) or may be obtained from the Federal Communications Commission, Washington, D.C. 20054.

Both announcements shall be made during the following time periods:

(a) For commercial television stations, between 8:00 p.m. and 10:00 p.m.

(b) For standard and FM broadcast stations, between 7:00 a.m. and 9:00 a.m., but if such stations do not operate during these hours, then between 4:00 p.m. and 7:00 p.m.

(c) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.

In the case of television broadcast stations and noncommercial educational television stations, such notices will be broadcast orally with camera focused on the announcer; at the end of the notice, a signboard with the licensee's address and the Commission's Washington address will be shown.

During the period beginning on the first day of the sixth full calendar month prior to the expiration of the license up to the first day of the last full calendar month prior to renewal, the public notice requirements proposed in Section I of this docket shall be waived.

82. The Commission noted that under the proposed amendments, the renewal applicant would no longer be required to publish in a newspaper a notice of his renewal filing. At the time of filing his renewal application, the licensee would, however, be required to submit a statement setting forth the date and times at which the proposed pre-filing notice had been broadcast and the proposed post-filing notice would be broadcast.

The Commission indicated that the statement in the proposed announcements that further information concerning the Commission's renewal processes is available at the station reflected its intention to publish a booklet explaining renewal procedures and to require licensees to have a legible copy of the booklet available for public inspection. The Commission said it assumed that the booklet would be ready for distribution by the time the rulemaking in the Notice was completed and that it would, without another notice of proposed rule-

making, amend Section 1.526 of its Rules to require that one copy of the booklet be readily available to the public at any time during the station's regular business hours.

Scheduling of the Renewal Announcements

83. WGBF, Basic, McClatchy and Fetzer oppose beginning the renewal announcements five months prior to filing. All maintain that the announcements should begin no earlier than three months prior to filing.

84. Several parties commented on the proposed time of day of the announcements, 8 P.M.–10 P.M. for television stations and 7 A.M.–9 A.M. for radio stations. KAKC, WSAU–TV and GE recommend that the Commission retain the time periods used for the existing broadcast notices of the filing of renewal applications, 7–10 A.M. for radio and 7–10 P.M. for television. Westinghouse proposes 6 P.M.–11 P.M. for television and 6 A.M.–10 A.M. for radio, while North Carolina supports 6 P.M.–11 P.M. and 7 A.M.–10 A.M.

85. Four parties suggest that not all announcements be made during the same time period. NBC recommends that at least 50% of the television announcements be made between 6 P.M.–11 P.M. and at least 50% of the radio announcements be made between 7 A.M.–10 A.M. and/or 3 P.M.–7 P.M. in any combination, and the remainder of the radio and television announcements any time between 8 A.M.–1 A.M. BEST thinks half of the announcements should be in "prime time" and the other half at other times as determined by reference to the time periods on the station's rate card. Corinthian speaks in terms of half the television announcements being made between 6 P.M.–11 P.M. and the rest at other hours. CBS says that only some of the announcements should be aired between 6 P.M.–11 P.M.

86. NAB, NBC, Dempsey & Koplovitz, Corinthian, KAKC, WSAU–TV and GE maintain that every eighth day is too often. All recommend similar alternatives of twice a month, every two weeks or every 15 days. Dempsey & Koplovitz notes that there has been no claim of insufficiency of the present number of announcements and emphasizes that announcements every 15 days over 5 months far exceeds existing requirements of four on air announcements and four newspaper announcements. NAB also contends that no justification has been given for the increase in broadcast renewal notices and contends that whether nineteen or twenty announcements would be better than four or forty-six announcements is a subjective determination. The fact is that irrespective of the number of announcements, only a portion of the audience will hear them, and Congress in enacting Section 311(a) of the Act never intended to ensure that all members of the listening and viewing public would receive actual notice of renewal filings. BEST and Urban Law, on the other hand, argue that announcements should be aired more frequently than every eighth day. BEST maintains that at the "outset" the requirement be every three days. Urban states that they "deplore the infrequency," but give no alternative recommendation.

87. *Conclusions.* After careful consideration of the options available and the comments received, we have decided to require that the

notices of filing of renewal applications be aired at the same intervals as the notices required by new Section 73.1202—that is, every fifteenth day. In order to scatter the announcements throughout the day, yet ensure that a substantial percentage of the announcements are aired during the periods of maximum viewing or listening, the notices of filing renewal applications will be aired at the following time periods (the text of amended Section 1.580(c), (d) and (m), is in Appendix B of this Report and Order):

Pre-Filing Announcements

(a) For commercial television stations—at least two of the announcements between 6 P.M. and 11 P.M. (5 P.M.–10 P.M. Central and Mountain Time).

(b) For commercial stations—at least two of the announcements between 7 A.M. and 9 A.M. For stations which neither operate between 7 A.M. and 9 A.M. nor between 4 P.M. and 6 P.M., at least two of the announcements shall be aired during the first two hours of broadcast operation.

(c) For noncommercial educational stations—at the same time as commercial stations, except that such stations need not broadcast the announcement during any month which the station does not operate.

Post-Filing Announcements

(a) For commercial television stations—at least three of the announcements between 6 P.M. and 11 P.M. (5 P.M.–10 P.M. Central and Mountain Time), at least one announcement between 9 A.M. and 1 P.M., at least one announcement between 1 P.M. and 5 P.M. and at least one announcement between 5 P.M. and 7 P.M.

(b) For commercial radio stations—at least three announcements between 7 A.M. and 9 A.M. and/or 4 P.M. and 6 P.M., at least one announcement between 9 A.M. and 12 P.M., at least one announcement between 12 P.M. and 4 P.M., and at least one announcement between 7 P.M. and midnight. For stations which neither operate between 7 A.M. and 9 A.M. nor between 4 P.M. and 6 P.M., at least three of the announcements shall be made during the first two hours of broadcast operation.

(c) For noncommercial educational stations—at the same time as commercial stations except that such stations need not broadcast the announcement during any month during which the station does not operate.

Elimination of the Newspaper Publication Requirement

88. No objections were raised regarding this proposal and, in fact, a number of parties specifically endorsed the change. NBC does, however, suggest that the licensee be *permitted* to have up to 25% of his required announcements in a local newspaper in lieu of being broadcast.

89. *Conclusions.* The newspaper publication requirement will be eliminated because we believe, as apparently do a number of parties filing comments in this proceeding, that announcements regarding broadcast matters should be broadcast. For this reason we will not permit stations to have a certain percentage of their required renewal announcements placed in a local newspaper in lieu of being broadcast.

The Text of the Renewal Announcements

90. Some parties maintain the proposed announcements are too long, although there is some disagreement regarding how long it takes to read them. One filing, for example, estimated 90 seconds, while another estimated 120 seconds. CBS recommends that both the eighth day announcement and the renewal announcement be one

minute. NBC and Corinthian suggest that the first paragraph of the proposed anouncement (including the reference to a three year license and the date of last renewal) be dropped. Dempsey & Koplovitz supports the elimination of the last paragraph and the sentence in the fourth paragraph which describes the inclusion of reports that accompany the renewal applications. Flower City thinks the material in the first three paragraphs can be condensed and Baldwin feels the announcements contain too many complex and lengthy sentences. Several parties submitted shorter alternative texts, but BEST and Urban Law suggest that broadcasters be allowed to experiment with the text of the announcements.

91. In addition to the objections to the phrase "public property" which were reviewed in the discussion regarding the text of the notices required by new Section 73.1202 (see paragraph 36), objections to other phrases or statements in the renewal announcements were received. Sonderling contends the reference to the right of the public to file formal comments and petitions should be deleted and the phrase in the present renewal announcement advising the public of their right to file letters setting forth "specific facts concerning the operation of the station" should be retained. Cohn and Marks and Gill recommend deletion of the statement: "The Commission welcomes informal comments at any time." Cohn & Marks argues that the statement practically guarantees future litigation regarding the meaning of the notice and the question of whether late filed comments require consideration. The statement should be revised to say that the cut off date applies to all comments, informal as well as formal. This would be consistent with the Commission's desire to encourage timely submission with minimum disruption of Commission's processes which might result from last minute informal comments. Gill submits that the phrase is made unnecessary by the announcements required by Section 73.1202 which invite the public to write the Commission during the license period. Gill also notes that the proposed text of the announcements refers to the cut off date as the "date thirty days before expiration." This is inconsistent with Sections 1.539(a) and 1.516(l) of the Commission's Rules which refer to the first day of the last full month prior to the month of expiration. Gill suggests that the text of the announcements be revised accordingly.

92. Urban Law points out that although Part III of the Notice states that announcements required by Section 73.1202 would be waived during a period ending on the first day of the last full calendar month "prior to renewal," Part I of the Notice states that the announcements would be waived during a period ending on the first day of the last full calendar month "prior to expiration" (during which time the renewal announcements would be aired). Urban Law emphasizes that the period between the date of expiration and the date of renewal may be of considerable duration and urges the Commission to revise the wording of the renewal announcement rule to read "prior to expiration." Westinghouse suggests that the renewal announcement Rule eliminate the requirement that the television notice be read by an on-air an-

nouncer. Westinghouse contends that a visual signboard is equally effective and stations should be given their choice of methods.

93. Several parties suggest additions to the text of the renewal announcements. Cohn and Marks recommends that the public be encouraged to first submit comments to the station and then, if satisfaction is not obtained, comments and petitions could be sent to the Commission. Urban Law submits that announcements should incorporate information regarding the public's right to have its needs and problems heard and met just as the eighth day announcements do. BEST says the announcements should inform the public that special appointments may be made for members of the public to view the station's public file.

94. *Conclusions.* As indicated in Appendix B we have incorporated some of the changes in the text of the renewal announcements that were recommended in the filings. The text has been shortened and its language simplified. Moreover, the existing requirement that the television notices be read by an on-air announcer has been eliminated.

95. We have substituted a reference to "public trustee" for "public property" as we did in new Section 73.1202, and in the interests of avoiding possible confusion in the minds of the listener or viewer we have deleted the statement: "The Commission welcomes informal comments at any time." But as has been indicated in paragraph 76 and for the reasons stated therein, we do not accept the recommendation of Cohn & Marks to apply a cut off date for the filing of informal comments. Inconsistencies cited by Gill regarding the cut off date and by Urban Law regarding the period during which the announcements required under new Section 73.1202 would be waived, have been corrected.

96. The renewal notices, unlike the announcements required by new Section 73.1202, are intended to inform the public of the station's upcoming or recent renewal filing and to apprise the public of the appropriate time for filing comments with the Commission regarding the renewal application. Thus we have not adopted the suggestion of Cohn and Marks that the public be encouraged to submit comments to the station before sending them to the Commission. Regarding BEST's suggestion that the announcements should inform the public that special appointments may be made to view the station's public file, we do not think it reasonable to require all licensees to provide for special appointments as long as the public file is available during the week as is now required. We would, however, encourage licensees who are asked to arrange such appointments to do so whenever possible.

Certification

97. Basic, McClatchy and Fetzer recommend that licensees be permitted to continue to submit certification after the post-filing notices. These parties say no purpose would be served by altering the existing post-broadcast requirements, and procedures would be optimally simple if the present system were retained.

98. *Conclusions.* Licensees will be required to submit a statement with their renewal application that the required pre-filing announce-

ments have been aired and the required post-filing announcement will be aired.

IV. INQUIRY AND PROPOSED RULE MAKING TO AMEND SECTION IV–B OF FORM 303 APPLICATION FOR RENEWAL OF TELEVISION STATION LICENSE AND ADOPTION OF ANNUAL REPORTING FORM FOR TELEVISION STATION LICENSEES

The Commission Proposal

99. In this Section of the Notice the Commission proposed an Annual Reporting Form for commercial television licensees and a revised Section IV–B of Form 303 for commercial television renewal applications. In introducing the revised Section IV–B the Commission noted that while some questions in the present form had been eliminated, questions which solicit specific quantitative information had been retained and refined. Licensees would, for example, be required to enumerate composite week programming of "News," "Public Affairs" and "Other" during the 6 P.M.–11 P.M. time period. In addition, new questions were added; other existing questions revised, and licensees would be asked to indicate which, if any, network public affairs programs were offered to them but were not carried and, if not carried, what programs were aired instead.

100. In proposing the Annual Reporting Form the Commission suggested that a more appropriate method than Part I of Section IV–B for commercial television stations to report on ascertainment might be for them to submit an annual listing of what the licensee considers to have been the most significant problems and needs in his service area during the preceding twelve months, and a listing of the programs televised during that period designed to help meet those problems and needs. The new television announcements proposed in Part I of the Notice would refer to the annual listings and would invite viewers to examine the lists and make comments and suggestions to the licensee. This would encourage continuous dialogue between the licensee and members of the public concerning what both consider to be the major problems and needs of the community.

101. In addition to annually listing significant problems and needs and programs aired which were designed to help meet those problems and needs, television licensees would be required to annually submit statistics regarding program performance in specified program categories during the composite week announced by the Commission each July or early August. This information would be included on the Annual Reporting Form which would be submitted to the Commission each year before September 1st. The Commission stated that the purposes of the annual filings of statistics would be: First, to provide the Commission with yearly statistics regarding nationwide television programming on commercial stations during a given composite week—statistics which are not now available to the Commission but which would be valuable in shaping any new policies in this area and in making the Commission, Congress and any other interested parties better informed; Second, to enable the Commission to make a more complete evaluation of programming performance of the licensee during the past renewal period; and Third, to enable the Commission, in a

comparative hearing involving a renewal applicant (where upgrading during the last year of the renewal period would not be to minimal service—see 22 FCC 2d 2040), to more readily ascertain if programming during the first two years of the license period differed significantly from programming during the third year.

102. The Commission had also indicated in the Introduction to the Notice that it intended to use the statistics derived from the Annual Reporting Form in compiling a nationwide data base. When this data base became available each television station would be placed within a yet to be determined grouping of stations (grouping to be by market, revenues, or by a combination of factors) and then annually ranked within that grouping in several critical categories, including percentage of total programming devoted to "News," "Public Affairs" and "Other" and percentage of total programming devoted to local "News" "Public Affairs" and "Other." The staff would then be instructed to closely scrutinize the renewal applications of all those stations whose ranking within their respective grouping falls below a specified level (as, for example, the bottom 10th percentile) and make a summary report of those renewal applications.

103. The Commission emphasized that initiation of annual reporting would not constitute the initiation of an annual renewal process, and that barring exceptional circumstances, evaluation of the station's performance by the Commission would still take place only once every three years.

104. The definition used for "News," "Public Affairs," "Other programs" and "Local programs," in both the Annual Reporting Form and the revised Section IV–B of Form 303 would remain the same as those now in use. These definitions read:

> (a) "News programs" (N) include reports dealing with current local, national, and international events, including weather and stock market reports; and when an integral part of a news program, commentary, analysis and sports news.
>
> (b) "Public Affairs programs" (PA) include talks, commentaries, discussions, speeches, editorials, political programs, documentaries, forums, panels, round tables, and similar programs primarily concerning local, national, and international public affairs.
>
> (c) "Other programs" (O) include all other programs excluding entertainment and sports.
>
> (d) A "Local program" (L) is any program originated or produced by the station, or for the production of which the station is substantially responsible, and employing live talent more than 50% of the time. Such a program, taped, recorded, or filmed for later broadcast shall be classified by the station as local. A local program fed to a network shall be classified by the originating station as local. All non-network news programs may be classified as local. Programs primarily featuring syndicated or feature films, or other non-locally recorded programs shall be classified as "Recorded" (REC) even though a station personality appears in connection with such material. However, identifiable units of such programs which are live and separately logged as such may be classified as local (e.g., if during the course of a feature film program a non-network 2-minute news report is given and logged as a news program, the report may be classified as local).

105. The Commission invited comments on the above definitions in light of its proposal and specifically raised the issue of whether the news and public affairs categories should be viewed together as a single category.

106. The Annual Reporting Form and revised Section IV–B of Form 303 proposed in the Notice follows:

ANNUAL PROGRAMMING REPORTING FORM

1. Using the form below list what you consider to be the most significant problems and needs of your service area during the past twelve months. (DO NOT LIST MORE THAN 10). Indicate (1) the number of programs or program segments excluding ordinary news inserts. (By news inserts, we refer to the daily or ordinary news coverage of breaking newsworthy events; an insert in a newscast that is not merely coverage of breaking events but rather seeks to deal in more depth or analysis with some problem should be counted); (2) the amount (hours and minutes) of program time; and (3) the amount (hours and minutes) of local programming devoted during the past twelve months to each of these problems or needs.

	PROBLEM OR NEED (Do not list more than 10) (1)	Programs Devoted to This Problem or Need Broadcast During the 12 Months Ended July 30,1/			Leave Blank
		No. of Programs or Program Segments 2/ (2)	Total Program Time (In Hrs. & Min) (3)	Local Program Time Included in Col. 3 (In Hrs. & Min) (4)	
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

1/ If the report does not cover the full 12 month period, indicate period covered: _____, 19__ to _____, 19__.

2/ Do not count ordinary news inserts.

2. As Exhibit No. — give for each problem or concern listed in Form I a brief description of each program or program segment aired by the applicant during the past twelve months that addressed itself to that problem or need. Identify each program by source and indicate the time of broadcast.

3. State the total hours of operation during the composite week: ----------

4. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted in the composite week to the categories (see Definitions) listed. Commercial matter within a program segment should be excluded in computing time devoted to that particular program segment (e.g., a 15-minute news program containing 3 minutes of commercial matter shall be counted as a 12-minute news program).

Composite Week Data	All Programs		Local Programs Only	
(1)	Minutes (2)	% of Total Time Operating 1/ (3)	Minutes (4)	% of Total Time Operating 1/ (5)
Total time operating		100%		1/
News		1/		1/
Public Affairs		1/		1/
All Other (exclusive of entertainment and sports)		1/		1/

1/ All percentages are of the total time found at the top of Column 2 in the check box

5. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted in the composite between the hours of 6–11 P.M. to the categories (see Definitions) listed. Commercial matter within a program segment would be excluded in computing time devoted to that particular program segment.

	All Programs		Local Programs Only	
	Minutes	% of Total Time Operating	Minutes	% of Total Time Operating 1/
Total time operating during 6 - 11 PM		100%		1/
News during 6 - 11 PM				1/
Public Affairs during 6 - 11 PM				1/
All Other (exclusive of entertainment and sports) during 6 - 11 PM				1/

1/ All percentages are of the total time operating between 6 - 11 PM, found at the top of Column 2 in the check box

6. If the applicant was affiliated with one or more national television networks during the past year, specify which and list all of the individual network public affairs programs during that period that the applicant was offered but never carried and indicate what programs were aired instead. If an entire network public affairs series* was not carried, the applicant may so indicate without having to list each individual program within that series, but still having to indicate what programs or program series were aired instead.

III. THE PROPOSED NEW RENEWAL FORM

A. The Proposed New Renewal Form Included in the Notice.

1. Using the form below list what you consider to be the most significant problems and needs of your service area during the past twelve months (DO NOT LIST MORE THAN 10). Indicate (1) the number of programs or program seg-

*E.g. *Face the Nation, Meet the Press, Issues and Answers.*

	PROBLEM OR NEED (Do not list more than 10) (1)	Programs Devoted to This Problem or Need			Leave Blank
		No. of Programs or Program Segments 2/ (2)	Total Program Time (In Hrs. & Min) (3)	Local Program Time Included in Col. 3 (In Hrs. & Min) (4)	
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

1/ If the report does not cover the full 12 month period, indicate period covered: _____, 19__ to _____, 19__.

2/ Do not count ordinary news inserts.

ments (excluding ordinary news inserts*), (2) the amount (hours and minutes) of program time and (3) the amount (hours and minutes) of local programming devoted during the past twelve months to each of these problems or needs.

2. As Exhibit No. —, give for each problem or need listed in Form I a brief description of each program or program segment aired by the applicant during the past twelve months that addressed itself to that problem or need. Identify each program by source and indicate the time of broadcast.

*By news inserts, we refer to the daily or ordinary news coverage of breaking newsworthy events; an insert in a newscast that is not merely coverage of breaking events but rather seeks to deal in more depth or analysis with some problem should be counted.

3. State in Exhibit No. — the methods by which the applicant during the past three years determined the problems and needs of the public served by his station.

4. Does the applicant anticipate any significant new problems and needs in his service area during the next renewal period? Yes —, No —.

If Yes, indicate in Exhibit No. — the new problems and needs.

5. Does the applicant expect to air during the next renewal period any new programs or program services devoted to significant problems and needs of his service area? Yes —, No —.

If Yes, indicate in Exhibit No. — the new program or program services and briefly describe these.

6. Does the applicant, during the next renewal period, plan to change the methods described in his answer to Question 3 for determining the problems and needs of the public served by his station? Yes —, No —.

If Yes, describe in Exhibit No. — the changes planned by the applicant.

7. In Exhibit No. — summarize and comment upon the complaints and suggestions received by the applicant from members of the public during the past renewal period in each of the following categories: (1) technical operations, (2) advertising, (3) employment practices, (4) criticisms of programming, (5) compliments on programming, (6) suggested programming.

8. State the total hours of operation during the most recent composite week: ----------

9. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted in the most recent composite week to the categories (see Definitions) listed. Commercial matter within a program segment should be excluded in computing time devoted to that particular program segment (e.g., a 15-minute news program containing 3 minutes of commercial matter shall be counted as a 12-minute program).

Composite Week Data	All Programs		Local Programs Only	
	Minutes	% of Total Time Operating 1/	Minutes	% of Total Time Operating 1/
(1)	(2)	(3)	(4)	(5)
Total time operating		100%		1/
News		1/		1/
Public Affairs		1/		1/
All Other (exclusive of entertainment and sports)		1/		1/

1/ All percentages are of the total time found at the top of Column 2 in the check box

Attach as Exhibit No. — a brief description of each program included in each category. Indicate the source (see Definitions) and the number of minutes of all programs listed as News, Public Affairs and all other programs, exclusive of entertainment and sports.

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10. Using the form below state the amount of time (rounded to the nearest minute) the applicant devoted to the most recent composite week between the hours of 6–11 P.M. to the categories listed. Commercial matter within a program segment should be excluded in computing time devoted to that particular program segment.

Composite Week Data for 6 - 11 PM Time Period	All Programs		Local Programs Only	
	Minutes	% of Total Time Operating	Minutes	% of Total Time Operating 1/
Total time operating during 6 - 11 PM		100%		1/
News during 6 - 11 PM				1/
Public Affairs during 6 - 11 PM				1/
All Other (exclusive of entertainment and sports) during 6 - 11 PM				1/

1/ All percentages are of the total time operating between 6 - 11 PM, found at the top of Colum 2 in the check box

Attach as Exhibit No. — a brief description of each program included in each category. Indicate the source and the number of minutes of all programs listed as News, Public Affairs and all other programs, exclusive of entertainment and sports.

11. State (a) the total number of public service announcements, (b) the number of public service announcements involving local organizations and (c) the number of public service announcements aired between 8 A.M.–11 P.M. during the most recent composite week.

12. State the number of 60-minute segments of the most recent composite week (beginning with the first clock hour of each broadcast day) containing the following amounts of commercial matter.

A. Up to and including 8 minutes---------- ———
B. Over 8 and up to and including 12 minutes---------- ———
C. Over 12 and up to and including 16 minutes---------- ———
D. Over 16 minutes---------- ———

List each segment in category D above, specifying the amount of commercial time in the segment, and the day and time broadcast.

13. If the applicant was affiliated with one or more national television networks during the past year, specify which and list all of the individual network public affairs programs during that period that the applicant was offered but never carried and indicate what programs were aired instead. If an entire network public affairs series* was not carried, the applicant may so indicate without having to list each individual program within that series, but still having to indicate what programs or program series were aired instead.

14. In the applicant's judgment does the information supplied in Question 8 through 13 adequately reflect its past programming:

Yes — No —

If "no," applicant may attach as Exhibit No. — such additional information as may be necessary to describe accurately and present fairly its program service.

*E.g. *Issues and Answers, Face the Nation, Meet the Press.*

15. State the proposed total hours of operation during a typical week: _____

16. State the minimum amount of time the applicant proposes to devote normally each week to the categories listed below. Commercial matter within a program segment shall be excluded in computing time devoted to that particular program segment.

	Total minutes	Percent of total time on air	Local minutes	Percent of total time on air
(1) News				
(2) Public Affairs				
(3) All other programs, exclusive of Entertainment and Sports				
(4) Local (total Local programming, including local programs in (1), (2) and (3))				

17. State the minimum amount of time the applicant proposes to devote normally each week between the hours of 6–11 P.M. to the categories listed below.

	Total minutes	Percent of total 6–11 p.m.	Local minutes	Percent of total 6–11 p.m.
(1) News				
(2) Public affairs				
(3) All other programs, exclusive of Entertainment and Sports				
(4) Local (total Local programming, including local programs in (1), (2), and (3))				

18. State (a) the minimum total number of public service announcements, (b) the minimum number of public service announcements involving local organizations and (c) the minimum number of public service announcements aired between 8 A.M.–11 P.M. which the applicant proposes to present during a typical week.

19. What is the maximum amount of commercial matter in any 60-minute segment which the applicant proposes normally to allow? _____
If applicant proposes to permit this amount to be exceeded at times, state under what circumstances and how often this is expected to occur, and the limits that would then apply.

Opposition to the Initiation of Annual Reporting

107. WSAU–TV, ABC, Sonderling, and North Carolina maintain that the Commission would be in violation of the Communications Act if it really intends to file the Annual Reporting Form "without evaluation at that time", because requiring information not directly material to considerations that affect granting or denial of applications is a violation of Section 307(d) of the Act.

108. Several parties fear the filing of the Annual Reporting Form will turn into *de facto* annual renewal. NAB argues that the new procedures could easily evolve into an annual review as groups and individuals receive an open invitation to pressure stations to increase their percentages to meet self-conceived levels of programming. The Commission would inevitably be dragged into such questions and in many instances would be forced to make yearly determinations as to the validity of the objections to the station's programming performance. WSAU–TV, GE and ABC suggest annual reports will require an annual community survey. WGN says the Commission would be

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forced to evaluate the annual listing of problems and needs as groups take exception to stations' good faith analysis of their communities' needs and interests.

109. The burden upon licensees that would be imposed by annual reporting is discussed in various filings. NAB says that the compiling of the programming percentages each year is a substantial undertaking which cannot be passed off as a routine station chore. Corinthian, McClatchy and Basic contend the new requirements would necessitate manpower additions. Nebraska, Sonderling and Fetzer claim that compiling the list of programs that were directed to problems and needs and breaking the programs down by time, source, etc., would be a tremendous task. Nebraska estimates that programs or program segments addressed to agriculture on a Nebraska station might run into the hundreds or even thousands each year, while Sonderling calculates that if one program segment each day was directed to each of 10 problems, the station would have to annually extract the amount of time devoted to 3,650 different entries. Metromedia says the time spent in compiling the Annual Report will rob the broadcaster of time needed to conduct continuing dialogue with the community and to program creatively to respond to viewer needs.

110. Some filings attack the three justifications given by the Commission for requiring annual reporting of programming statistics. Various parties contend that the first justification—to provide the Commission with heretofore unavailable yearly nationwide statistics regarding television programming during a given composite week, which would be valuable in shaping new policies and in making the Commission, Congress or other interested parties more informed—is insufficient to warrant the burden imposed by the annual reporting. ABC, GE, WSAU–TV, Sonderling, Corinthian and Metromedia all maintain that the statistics now available to the Commission adequately reflect television programming performance and are adequate for shaping new policies. McClatchy, Basic and WJBF–TV argue that the need for data for some unspecified possible future policy decisions hardly justifies the new requirement. Flower City suggests that if the collection of yearly statistics is the primary justification for yearly reports, then there is no need to include in those reports the list of problems and needs and programs directed to those problems and needs. These listings are not conducive to being tabulated in statistical form.

111. Other comments attack the second justification given by the Commission for requiring annual reporting of programming statistics—to enable the Commission to make a more complete evaluation of programming performance of the licensee during the past renewal period. Several parties, including WGN and WJBF–TV, suggest that the Commission could achieve the same purpose by expanding its composite week showing every three years to include days from all three years, as for example, by having a 21 day composite week which would include 7 days from each of the 3 years in question. Sonderling, Corin-

thian, Stuart, KUTV, and Flower City question the need for the Commission to have any more statistics in order to make a public interest determination.

112. The third justification given by the Commission for requiring annual reporting of programming statistics—to enable it in a comparative hearing to more readily ascertain if programming during the first two years of the license period differed significantly from programming during the third year—was also attacked in various filings. WSAU–TV, ABC, Sonderling, McClatchy, Basic, Corinthian, and Flower City all contend it is unnecessary or unjust to require every licensee to file an annual report just to enable the Commission to assess "upgrading" in a handful of comparative hearing cases. WGN and WJBF–TV say the Commission could achieve its objectives by broadening the scope of the composite week in the triennial showing.

113. *Conclusions.* As will be discussed in later paragraphs, we have decided that certain materials included in the proposed Annual Reporting Form need not be compiled annually, and that other materials proposed in the form need to be compiled each year for inclusion in the public inspection file, but need not be sent to the Commission until renewal time. We will, however, require that the statistics which were to be obtained from proposed Questions 3 and 4 of the Annual Reporting Form be sent to the Commission each year as the Annual Programming Report. These composite week programming statistics will be directly material to considerations affecting granting or denial of renewal applications, just as composite week programming statistics have been in the past.

114. The annual filing of the programming statistics will not result in *de facto* annual renewal any more than the annual filing of financial information (Form 324) has resulted in an annual evaluation and determination of whether the licensee is financially qualified. Form 324's have been traditionally used in determining financial qualifications only at renewal time, and only in conjunction with other information filed with the renewal application, as for example, the licensee's balance sheet. Similarly, the information submitted by the licensee in his Annual Programming Reports will be considered in our public interest determinations regarding the renewal of his license only at renewal time, and only in conjunction with other relevant information regarding the licensee's programming, as, for example, the annual listing of programs aired to help meet significant problems and needs of the service area and the responses to various questions in new Section IV–B of Form 303. It is possible that members of the public may try to influence stations to increase their programming percentages each year, but we will not let ourselves "be dragged into such questions" during the renewal period any more than we have been or intend to be "forced" into a yearly evaluation of how well a station is ascertaining and meeting the problems and needs of his service area.

115. As will be indicated in paragraphs 128, and 141–146, we have decided that licensees need only list typical and illustrative programs

in their annual listing of significant problems and needs of the service area and programs aired to help meet them. This should considerably reduce the burden placed upon licensees by our new requirements. After detailed consideration, however, we have determined that the burden of compiling and submitting programming percentages each year should be retained. The process by which we made that determination is outlined in the following paragraphs.

116. We first re-affirmed a conclusion reached prior to the issuance of the Notice; that while the statistical approach of using a composite week to reflect the past programming of licensee was sound, the data base (seven days every three years) being used to implement that approach was insufficient and should be expanded to seven days every year. We then considered the question of whether to announce each year the seven days which would constitute one of the licensee's composite weeks, or to adopt the approach of announcing every three years an expanded twenty-one day composite week. Currently, we announce each summer a composite week which is used by all licensees whose licenses expire during the following calendar year, and is ignored by all other licensees. One alternative would be for us to continue this practice, and merely announce each summer an expanded twenty-one day composite week which would be used by all licensees whose licenses expire during the following calendar year, and would be ignored by all other licensees. This would, however, necessitate our limiting the number of months which would be used in selecting the twenty-one day composite week, and result in the twenty-one day composite week being selected from a twenty month period, rather than from a thirty-six month period. For example, if we issued on August 1, 1974,[6] a Public Notice announcing the twenty-one day composite week which would be used by all licensees whose licenses expired in 1975, our twenty-one day composite week could not begin before December 1, 1972 (the first day of the current license period for December 1, 1975 renewal applicants) and could not extend beyond July 1, 1974 (in order to ensure that 1975 renewal applicants did not know beforehand that a specific day was to be included in the composite week).

117. We could eliminate the problem referred to in paragraph 116 by having a different twenty-one day composite week for each group of renewals—that is, by having one twenty-one day composite week to be used by licensees whose license expire in February, 1975, a second twenty-one day composite week for April, 1975 renewal applicants and so forth. This would, of course necessitate our selecting six different composite weeks each year and sending out six different Public Notices annually. We would be willing to assume those additional burdens if the ultimate benefits that accrued to licensees, the Commission and the public warranted it. But we question whether real benefits would accrue from such an approach. Broadcasters would

[6] With the changes of filing dates discussed in Part Two of this Report and Order, February 1, 1975 applicants would be filing their renewal applications by October 1, 1974 and would want to know by at least early August, 1974 the twenty-one days to be included in their expanded composite week.

still have to compile (all at one time) programming statistics based on twenty-one days of programming. Moreover, these statistics would have to be compiled at the same time as licensees would be compiling information to complete Form 303, and at the same time as the latest annual listing of significant problems and needs of the service area and programs aired to help meet those problems and needs was being finalized for placement in the public inspection file.

118. In fact, in one important way the broadcaster would be at a distinct disadvantage if an expanded twenty-one day composite week announced every three years were adopted in lieu of a yearly seven day composite week announced annually. In receiving his renewal grant a licensee makes certain representations regarding the nonentertainment and local programming he will broadcast during a typical week during the license period. The basic measure of the extent to which those representations have been fulfilled is the programming broadcast during the composite week. With a yearly seven day composite week announced annually, unlike an expanded twenty-one day composite week announced at renewal time, the licensee would be able to know at periodic intervals during the license period whether promise versus performance problems are suggested by some of the composite week programming statistics, and would be able to immediately take whatever appropriate action is necessary to ensure that such problems are not suggested in the remaining composite week statistics for the license period.

119. On the other hand, we believe there are distinct advantages of announcing over a three year period three seven day composite weeks, rather than announcing at renewal time one twenty-one day composite week. The burden of compiling the statistics would be spread out over three years rather than concentrated at renewal time when other burdens are concentrated. The licensee would have an indication relatively early in the license period of whether at least a portion of his composite week statistics[7] might reflect any deviations between promise and performance, and whether alterations in his program schedule might be appropriate to ensure that his representations made in his last renewal application match the composite week statistics that will appear as a part of his next renewal application. Then too, interested members of the public would be able to have more information during the license period regarding the licensee's programming. Hopefully, this increased information coupled with the annual listing of problems and needs and programs aired to help meet them will lead to more continuous, informed, and constructive dialogue between viewers and listeners throughout the license period.

120. Having determined the desirability of annually informing all licensees of a seven day composite week, we then considered the merits

[7] Due to the staggered expiration dates, a portion of the composite week in one of the years of the renewal period will, in varying degrees, overlap with another license period. With the aid of the program descriptions (including the date of the program) which accompany the Annual Programming Report, however, we will be able to distinguish programs aired during another license period, should that ever be deemed necessary.

of having all licensees use the identical seven days as their composite week and requiring that the composite week statistics be submitted annually rather than at renewal time. Several distinct advantages would seem to accrue to the Commission from annual submission by all licensees of programming information from a uniform composite week. Annual statistical information from the Annual Programming Report could be computerized and tabularized in a variety of ways, much as is the annual financial information obtained from Form 324. This information would not only be of general use in revealing industry trends, it would also have specific applications to specific areas of inquiry and policy. For example, if Annual Programming Reports (and accompanying exhibits containing brief descriptions of non-entertainment and local programming) had been filed in the past several years, we would now be able to much more easily and readily determine the impact of the prime time access rule on the amount, nature and placement of prime-time non-entertainment and local programming on all commercial television stations. Similarly, regression analysis of information obtained from the Annual Programming Reports and Form 324's as well as from other sources of annual industry statistics would aid us in better determining important variables affecting programming diversification in television. This knowledge would, of course, be of significant value in evaluating and predicting the implications and impact of various Commission policies.

121. Annual Statistics reflecting programming aired by all licensees during an identical seven day composite week would also be useful in the compilation of annual statistical profiles of individual stations in order to see how the programming of renewal applicants compared during the license period with the programming of similar stations (similar in terms of market size, presence or absence of network affiliation, and so forth) around the nation during the identical period. In any such comparison the advantage of having all stations using the same composite week would be offset if we did not require simultaneous annual filing of the statistics which would permit rapid simultaneous annual processing and analysis of the comparable data. While we are not adopting a ranking procedure such as that proposed in the Notice which would automatically determine which renewal applications would continue to be processed and approved solely by the staff under delegated authority and which would only be approved by the Commission, we recognize that on occasion, demands of staff and resources may well prevent the Broadcast Bureau from devoting all the attention it would like to devote to each renewal application in a given renewal group. In such circumstances, the annual statistical profiles of individual stations in the renewal group used in conjunction with statistics indicating the programming of all other similar stations during the identical period, might well be used by the staff in rapidly selecting those applications which would receive the greatest amount of time and attention.

The New Approach to Reporting on Ascertainment and the Meeting of Community Needs

122. Support for the new approach is expressed or implied in various filings. Westinghouse says the revision is appropriate because (a) the focus will now be an actual programming performance, (b) the new method recognizes that ascertainment is a continual process, and (c) the retrospective reporting method should enable licensees to provide more precise and reliable data. NAB and KAKC believe the method of listing problems and needs to be much preferable to the Primer and ask the Commission to apply the new approach to radio at the same time as it is applied to television. But NAB opposes a yearly filing of problems and needs and says that a filing every three years would be sufficient. A similar position is held by North Carolina and WJBF–TV. Flower City commends the Commission for abandoning the Primer-type survey, and CBS, ABC, WSAU–TV, and GE request that the Commission make it clear that the Primer requirements would not be applicable to the annual reporting of problems and needs. Paducah says the Commission's approach is a superior avenue for encouraging station community activities and provides a more realistic basis for review of local involvement than the mere examination of comments inspired by the announcements proposed in Part One of the Notice.

123. Opposition to the new approach, particularly the anticipated termination of the applicability of the Primer for renewal applicants, is raised by citizen groups. ACLU claims that disposing of the Primer would eliminate the most important feature of the whole ascertainment procedure—the incentive to apply the modern techniques of the social scientist to uncover the actual demographic conditions of the communities to be served. BEST contends that the Annual Report, even when coupled with the announcements proposed in Part One of the Notice will not be as successful as the Primer in promoting or sustaining a continuing dialogue. BEST says that with the new approach all case law regarding ascertainment procedures disappears and is replaced by uncertainty as to what constitutes a positive, continuing effort. BEST maintains that under the new system grounds for a hearing should exist whenever a prima facie showing can be made that (a) the licensee had not engaged in dialogue with leaders and/or the public in arriving at his list of needs; or (b) that a major need was not reported; or (c) that a need was reported but was not listed as one of the ten most significant problems, even though a cross-section or random sample of leaders and/or the public believe the need was greater than some of the needs that were so listed. Otherwise, according to BEST, we are back to the "good faith" judgments of broadcastors that may be based on nothing more than personal predilection. NOW submits that with the new approach the broadcaster's subjective judgment of needs would no longer be measured against the judgments of representative community leaders and the broadcaster would

no longer be required to seek information from representatives of the public prior to formulation of program plans. NOW submits that without the Primer requirements, most of the officially filed evidence of broadcaster efforts or lack thereof to determine the composition of the community and its needs would be eliminated, and without such records, women would find it difficult to prove their needs were overlooked.

124. United Church argues that there has been a vast improvement in the quality of community surveys since the Primer was adopted, and the virtue of the present situation is that the community itself provides ascertainable standards by which program service can be measured. Under the new approach, the licensee is invited to define community needs, not as a guide in planning future programs, but rather as a rationalization of his past performance. According to United Church, the Supreme Court decision in *Red Lion Broadcasting Company* v. *FCC* (395 U.S. 367 (1969)) made it clear stations may not be used simply to deal with community problems as seen by the broadcasters. They should deal with problems as seen by responsible leaders representing all elements of the community. Urban League contends that however ill-reasoned, ill-perceived or unfounded the applicant's conception of needs, the mere fact he had this conception would fulfill the Commission's requirements. Moreover, the licensee would simply have to say what he thought the needs were rather than be required to show what they were. Urban League maintains that Section 308(b) of the Act requires applicants to set forth facts the Commission may require, not opinion or speculation. If opinion is expressed, the facts on which it is based should be set forth.

125. Alternatives to either retaining existing requirements or adopting the proposal outlined in the Notice are suggested in several filings. United Church outlines a "compromise" solution whereby the Primer would be retained but detailed survey information need only be kept at the station as part of the public file, and need not be sent to Washington. United Church claims that while it is impracticable to expect the Commission to undertake a detailed review of survey information, it is not too much to expect stations every three years to review the most recent demographic data and re-open contact with leaders representative of all the significant groups in the community. If there are deficiencies in the surveys, the public can bring those deficiencies to the Commission's attention. BEST in Reply Comments says it would not object to the licensee not being required to submit to the Commission the information supporting his ascertainment, providing such information is available at the local level for inspection and duplicating facilities are available at nominal cost, and providing that all backup material, including individual interview sheets (unless the licensee can produce a request for confidentiality signed by the interviewee and unsolicited by the licensee), are also available. Foley in Reply Comments says United Church has a good suggestion since formal ascertainment is desirable but, as his study of 1971 renewal applications indicates, some stations are presently filing with the Commission hundreds of pages of unanalyzed and untabulated data. Only about one-third of the 1971 applications examined by Foley presented any sort of tabulation summarizing even a part of the data collected in the ascertainment.

Only about one-tenth of the applications showed any attempt to relate the needs to the findings of the surveys. Yet Foley contends the Commission should at least require some summary and analysis of the data to be sent to Washington, even if raw data would remain at the station and even if no evaluation of the data was required.

126. ABC, WSAU–TV and GE recommend the Commission eliminate the requirement for submitting detailed survey information of methods and results, but do not substitute anything for that requirement until matters relating to Docket 19154 (36 FR 3939) are resolved. Nebraska, McClatchy and Basic suggest the Commission eliminate the Primer requirements entirely and forget about the Annual Report approach. Nebraska argues that licensees should be free to adopt their own ascertainment methods and that annual reporting of programs to meet needs would be an almost impossible task which would put naked pressure on quantity verus quality. McClatchy and Basic suggest that the Commission eliminate the Primer requirements and forget about annual reporting, and merely ask the renewal applicant to describe in detail in his renewal application his ascertainment procedures, the problems and needs of his community, and the programs he has aired or proposed to air to meet those problems and needs.

127. *Conclusions.* In proposing that commercial television licensees annually list the problems and needs of their communities and the programs they aired during the year directed to those problems and needs, our intention was to develop a mechanism by which the licensee's conception of current significant community problems and needs and his efforts to meet them could be made available to the public on a continuing basis. The television announcements proposed in Part One of the Notice would serve to remind the public of the annual listings and to invite examination of and comment on them. Our hope was that in this manner continuous dialogue between licensees and members of the public concerning what both consider to be the major problems and needs of the community would be encouraged, so that any dissatisfaction with a licensee's conception of community problems and needs or his efforts to meet them would be immediately communicated to the licensee, resulting in local resolution of such dissatisfaction as it arises, and eliminating the need for the filing of a petition to deny license renewal.

128. As indicated earlier, the number of petitions to deny that have been filed since the proposals in the Notice were issued in February 1971 have continued to increase. The most common complaint raised in recent petitions relates to allegations that the licensee in question has failed to meet the problems and needs of the community, a fact which seems to confirm the desirability of the annual listings. Thus we have decided to adopt a requirement that all commercial television licensees annually compile a list of significant problems and needs of his service area during the past twelve months, and typical and illustrative programs aired during that period that were designed to help meet them. Since, as indicated in the Notice, we would not normally examine these annual listings during the license period, we will not require these listings to be sent to Washington until renewal time. Licensees will, however, be required each year to place the new listings in their

local public inspection files on the anniversary date on which renewal applications are due. The three annual listings for the current license period (including the lists to be placed in the public inspection file upon filing of the renewal application) will be required to be submitted as part of the renewal application. (See Appendix B and Question 1 of revised Section IVB of Form 303 in Appendix E).

129. There still remain the questions of how adequate ascertainment of problems and needs can best be assured and the manner in which commercial television licensees should report on their ascertainment efforts. Positive, continuing, and diligent efforts by licensees to ascertain the needs of the community has long been a basic Commission policy. (*En Banc Inquiry re: Programming*, 25 FR 7291, 7295 (1960).) To clarify our policies and provide guidelines for meeting our requirements with respect to ascertainment we adopted in February 1971 (on the same day as the Notice in this proceeding was adopted), at the request of the Federal Communications Bar Association, the Primer on Ascertainment of Community Needs (27 FCC 2d 650) (36 FR 4092) applicable to all commercial licensees. In releasing the Primer we expressed our belief it would "aid broadcasters in being more responsive to the problems of their communities, add more certainty to their efforts in meeting Commission standards, make available to other interested parties standards by which they can judge applications for stations licensed to their community, and aid our staff in applying standards uniformly." We indicated, however, that with respect to renewal applicants the Primer was to serve "as an interim measure until other standards are adopted."

130. In March 1973 we issued a Notice of Inquiry in the Matter of Ascertainment of Community Problems by Broadcast Applicants (Docket 19715). The purpose of the Inquiry is to determine "whether present ascertainment requirements serve the public interest in the most effective way possible and, if not, [to determine] what improvements could be made to accomplish that objective." After evaluating the comments received in response to the Notice, we will decide what, if any, changes in the present methods of ascertainment should be proposed in the form of a Notice of Proposed Rulemaking.

131. As to the matter of the licensee's reporting on his ascertainment efforts, we will no longer require the commercial television renewal applicant to submit as part of his renewal application details regarding methods by which the significant problems and needs of his community were ascertained. We will, however, require such applicants to certify in their renewal applications that he has followed the Commission's current guidelines (presently, the Primer) in ascertaining the problems and needs of his service area. The renewal applicant will also be asked to verify that upon renewal filing, all relevant materials regarding his ascertainment during the current license period have been placed in the station's local public inspection file.

(See Question 2 of revised Section IV B of Form 303 in Appendix E). We may, of course, from time to time request to see these materials. Normally this would occur because a specific question has been raised regarding the adequacy of ascertainment by a particular licensee. On other occasions it might occur because we have decided to reassure

ourselves that all commercial television licensees are undertaking adequate ascertainment of community needs and have picked at random several commercial television renewal applicants whose ascertainment materials we will examine.

Comments Directed to Specific Questions of the Proposed Annual Reporting Form—Questions 1 and 2

132. Several parties discuss the first part of Question 1, the listing of problems and needs. Sonderling recommends the Commission clarify the scope of the phrase "significant problems and needs." Is the Commission thinking of a broad subject, as, for example, pollution, or one more narrowly defined, as, for example, air pollution, water pollution or noise abatement. NBC says the Commission should make it clear that problems and needs include problems of national and international significance. BEST submits that the geographic range of needs is uncertain. Presumably, the primary obligation of the licensee will remain to his city of license with lesser obligations to other parts of his service area, but this is unclear.

133. BEST wonders why the list is limited to ten problems, since the number bears no relationship to the number of pressing needs that may exist. BEST notes that Question 19 of the Primer says if an applicant for a construction permit or transferee uncovers only a few problems, he must redouble his efforts to discover more community problems. Urban Law, Storer, and Fetzer agree with BEST's contention that limiting the list to ten problems makes the listing too general and of no value. Foley in Reply Comments, however, suggests that while the stations will be general in defining the needs, the variety of programs and program segments listed under each of the needs would illustrate the depth to which the station is meeting the needs it has identified. Foley maintains that his study of 1971 renewal applications indicates it is presently impossible to determine how well an applicant's programming meets the needs he identifies. Proposed Question 1 should help solve this problem by clearly linking programming to the ten major needs.

134. CBS, Fetzer and BEST are concerned that all program development and nonentertainment programming will be channeled only towards the ten current community problems. Baldwin expects stations to determine ten categories after reviewing their programming during the preceding twelve months and then list those ten as the most significant problems and needs. He thinks it would be more realistic to ask for the number of programs, amount of time, and amount of local time devoted to major problems and needs treated by the station. Sonderling predicts serious logging problems caused by the necessity to list problems and needs. It wonders how the traffic department can discern in October what will be the most significant problems and needs of the following August.

135. In comments regarding the second part of Question 1 (columns 2, 3, and 4 of the form) and Question 2, Urban Law notes that the present renewal form asks for a listing of programs to *meet* problems and needs while Question 1 of the proposed Annual Report asks for programs *devoted* to problems and needs and Question 2 asks for pro-

grams *directed* to problems and needs. Urban Law claims there is a significant difference. NBC and Westinghouse think the Commission should delete the requirement of indicating the source of the programs dealing with problems and needs. NBC argues that the substance rather than the source of the program is what matters to the public, and the licensee should be permitted discretion as to the manner in which he will serve needs and the various sources of programs he will utilize. Westinghouse says the requirement is unnecessary since other Questions, especially those on the three year form, will provide quantitative and descriptive programming information.

136. Several parties maintain that the Commission should not exclude "ordinary news inserts" from being listed in answering the second part of Question 1 and Question 2, especially without giving a justification for the exclusion. CBS submits that ordinary news inserts constitute an important part of any station's exploration and coverage of significant community problems. To exclude news inserts would be to discriminate against the news format, in favor of the less effective public affairs format. Mt. Mansfield argues that analysis is uniformly recognized by responsible professional journalists as having no place within the body of a newscast. The Commission's proposed policy forces a station to deviate from established practices and principles and insert analysis in newscasts in order to have more items to list in answer to Question 1. Mt. Mansfield also fears that excluding news stories will curb a desirable trend to longer local news programs. Corinthian suggests that in Docket 19154 the Commission recognizes that routine news coverage serves the function of informing the public of problems and needs as does public affairs programming. Flower City cites Question 33 of the Primer which says news programming can be considered as programming to meet community needs.

137. CBS and BEST note that Question 4 of the existing Section IV–B of Form 303 asks for a description of programs to include source, type, times broadcast and extent, if any, to which community leaders or groups are involved, and suggest that the new Question 2 should ask for similar descriptions. BEST asks that in answering new Question 2, stations be required to include all aspects of the description of programs in the current Question 4. CBS recommends that this be done *in lieu of* the requirement to answer the second part of proposed Question 1; that is, instead of having to list the number of programs, the amount of program time and the amount of local programming devoted to each of the (up to ten) problems and needs listed. CBS contends that the information called for in the second half of Question 1 (columns 2, 3 and 4 of the form) is extremely burdensome if not impossible to compile, and would in any case be grossly unreliable, especially the time measurements. CBS says its approach would avoid the implication that each program or program segment is to answer only one specific problem, an implication which would inhibit exploration of new program ideas and other problems. CBS argues that a representative listing (as opposed to a listing of each program segment) in Question 2 would be adequate for the Commission's purposes.

138. With regard to Question 2, NBC agrees with CBS that a sample showing of program or program segments aired for each problem or

need should be all that is required. NBC refers to the record keeping and recording burden that would be imposed by the Commission's proposal, especially on those licensees carrying substantial amounts of public affairs. NBC says the Commission could always ask for further information if it were needed.

139. CBS, Mt. Mansfield and Sonderling ask that if the Commission decides to exclude ordinary news inserts from being listed, it should further clarify what is meant by "ordinary news inserts." CBS doubts a distinction can be made between ordinary "coverage of breaking news" and "news that seeks to deal in more depth and analysis." Mt. Mansfield asks if a carefully prepared documentary with only factual expository material without analysis could be listed; if so, why not a carefully prepared news story? Sonderling wonders if a station which listed Indo China as one of the most significant problems, in answering Question 2, would be able to include as a program or program segment President Nixon's address regarding the China trip, or a segment of a newscast at 11:00 PM which either summarized the President's remarks or played back his address in toto.

140. NBS and Storer contend that the Commission should allow public service announcements (PSA's) devoted to significant problems and needs to be listed. NAB refers to Questions 28 and 30 of the Primer which indicate that announcements may be relied upon at least as a partial means of meeting problems and needs. Storer also refers to Question 28 of the Primer and recommends that licensees, at least on an optional basis, be allowed to list PSAs. Sonderling wonders whether a station which has listed race relations as one of the most significant problems of his community could list *Lilies of the Field*, *A Patch of Blue*, or *Guess Who's Coming to Dinner* in answering Question 2.

141. *Conclusions.* As indicated in paragraph 128, licensees will be required each year to compile a list of significant problems and needs of their service area and typical and illustrative programs or program segments aired to help meet those problems and needs. These lists are to be placed in the local public inspection file on the anniversary date on which renewal applications are due. Upon filing of the renewal application, all renewal applicants are to forward to the Commission the three annual listings for the current license period (See Appendix B and Question 1 of new Section IVB of Form 303 in Appendix E).

142. Licensees will be asked to limit their lists to ten problems and needs. As Foley suggests, this will make it possible for us to obtain detailed information regarding the programming aired to help meet each of the problems and needs listed. We have also restated the requirement so that licensees are to list (up to ten) "significant problems and needs" of the service area rather than "the most significant problems and needs". This will perhaps result in a greater total number of significant problems and needs being listed (and hopefully met) by the total number of licensees in a given service area.

143. To eliminate the inconsistency cited by Urban Law (See Paragraph 135), the questions now refer to "programming to help meet problems and needs." Identification of the source of each program or program segment is still required, although we would expect that pro-

grams aired to meet significant problems and needs of the service area would be primarily local.

144. The exclusion of ordinary news inserts will be retained. This is not to deny the value of such inserts or to discriminate against the news format. On the contrary, news programming has long been regarded as one of the most significant means of contributing to an informed electorate and helping to meet community problems and needs, and has therefore, been included as one of the four major programming categories in the new Annual Reporting Form. But proposed Questions 1 and 2 were designed to supplement general information regarding composite week programming of "News," "Public Affairs," and "Other" that would be obtained each year from proposed Questions 4 and 5.

145. With respect to the problems of defining "ordinary news insert," we recognize that situations may well arise where there is some question regarding whether a program is or is not an ordinary news insert. But it is not our intention to evaluate stations merely on the basis of the number of programs or program segments or the amount of program time listed. Nor do we think that the problem of definition of "ordinary news inserts" will be crucial to evaluation of a licensee's efforts to help meet local problems and needs, since we doubt licensees would put themselves in a position where the only programs or program segments which were listed each year were those that were on the borderline of being ordinary news inserts.[8] By the same token, while we will allow licensees to list *Lilies of the Field* and *A Patch of Blue* as helping to meet the problem of race relations, we doubt that licensees who list race relations as one of the significant problems and needs of their service area will want to have no other programs or program segments listed as helping to meet the problem. PSAs, however, should not be listed since new Section IV–B of Form 303 has specific questions concerning PSAs.

146. The burden of record keeping referred to in various filings should be considerably reduced by our decision to require that only typical and illustrative programs be listed opposite each significant problem and need. We also have decided to impose a page limitation of five pages on the listing of problems and needs and typical and illustrative programs aired to help meet them. Licensees will, however, be able (at their option) to supplement these listings by placing in their public inspection file additional material, identified as a continuation of the listings and subject to Commission inspection. (see paragraph 212).

Questions 3, 4, and 5

147. Several parties commenting on Questions 3, 4 and 5 of the proposed Annual Reporting Form (which correspond to Questions 8, 9, and 10 of the proposed new Section IV–B of Form 303) think that the proposed 6–11 PM prime time classification should be expanded beyond 6–11 PM. WSAU–TV recommends 4:30–11 PM, while ABC and GE recommend 5–11 PM. All three parties state the changes

[8] If, of course, experience suggests a more precise definition of "ordinary news inserts" is required, we can always draft and release such a definition.

would enable stations who wished to continue to counter-program by offering news at earlier hours, to do so without being penalized. Moreover, the public would be better off by having some stations offering news from 5–6 PM. Corinthian opposes the separate 6–11 PM classification or any separate classification. Cohn & Marks recommends 5:30–11:30 PM. It argues that those stations now programming news at 5:30 PM would, under the Commission's 6–11 PM classification, be forced to move the news to 6 PM whether that served the public interest or not. WSAU–TV says the 6–11 PM classification should be responsive to the different time zones.

148. BEST recommends that the 6–11 PM classification for local programming devoted to "News", "Public Affairs" and "Other" be joined by two other classifications—8 AM–6 PM and All Other Hours. BEST notes that Question 5 of the existing form has local programming divided into three categories: 8 AM–6 PM, 6 PM–11 PM and All Other Hours. It submits these three categories should be included in both the Annual Reporting Form and the new Section IV–B of Form 303 in the enumeration of "News", "Public Affairs" and "Other".

149. As indicated in paragraph 106, the Commission asked for comments regarding the adequacy of the present definitions of "News", "Public Affairs", "Other" and "Local" and asked whether "News" and "Public Affairs" should be viewed together as one category. WSAU–TV, GE and ABC believe that existing definitions are adequate, while Westinghouse thinks the definition of "local program" should be revised by eliminating the requirement of employing live talent in more than 50% of the program. Westinghouse submits that valuable programs, including locally produced documentaries, are created and produced locally by stations which employ no live on camera talent. Corinthian and Flower City ask the Commission to keep in mind that the new source classifications exclude commercial time which may well cause confusion in comparing promise vs. performance. Flower City says that the difference between gross time (present Section IV–B of Form 303) and net time (proposed Section IV–B of Form 303) may be as much as 20%, depending on the amount of commercial matter carried. Flower City recommends the Commission keep the total programming time approach of the present Section IV–B.

150. Westinghouse, Gill, McClatchy, Basic, Corinthian and Flower City contend that "News" and "Public Affairs" should be combined into one category. These parties argue that combining the categories will eliminate the necessity for making "hairline" and often arbitrary distinctions in classifying programs which essentially serve the same functions. Flower City gives three examples of the present difficulty of classifications: (1) live coverage of a Presidential news conference; (2) an interview during a news program with SALT talk Ambassadors, each stating his own country's position; (3) a report by the Vice President on the Vietnam War.

151. On the other hand, Urban Law and BEST oppose combining "News" and "Public Affairs" into one category. Urban Law says combining the categories would remove the licensee's incentive to provide

imaginative, in-depth coverage of matters of public concern and would greatly complicate the already difficult task of examining a licensee's commitment to provide more than mere news coverage. BEST says that combining the categories would provide an incentive for licensees to program more cursory coverage associated in news programming and avoid the less profitable, but more detailed treatment that can be accorded in the public affairs format. BEST notes that licensees generally include relatively long lists of public affairs programming in providing qualitative analysis in their applications, while qualitative information regarding news programs are not included. NAB feels the question of combining "News" and "Public Affairs" should be delayed until resolution of Docket 19154.

152. *Conclusions.* As indicated in paragraphs 113–121 and for the reasons stated therein, we have decided to require that the yearly composite week programming statistics which were to be obtained from Questions 3, 4, and 5 of the proposed Annual Reporting Form be sent to the Commission each year. We will also require (as is now required in Section IV–B of Form 303 and was proposed in Questions 9 and 10 of the proposed new Section IV–B) that a brief description of each program included in each category ("News," "Public Affairs," and "Other") accompany the statistics and the composite week programming log.

153. After evaluating our experience with the classification of time periods in the current Section IV–B of Form 303 and analyzing available relevant data concerning national television viewing habits and audience levels, we believe there is sufficient justification to retain the present 6–11 PM time classification and to require licensees to submit statistical information for programs aired during the specific time period.[9] We do not believe, however, that the 6–11 PM time period should be extended beyond 6–11 PM, nor do we think there is sufficient justification in terms of viewing patterns and audience levels to continue to separate the remaining hours of the day into the two separate categories of 8 AM–6 PM and All Other Hours.

154. The present definitions of "News", "Public Affairs", "Other" and "Local" will be retained. We recognize that some valuable programs may be locally created and produced without employing live on camera talent and have ensured there is adequate provision in the new Section IV–B of Form 303 for licensees to indicate that such programs have been aired. (See especially Question 7B of new Section IV–B of Form 303 in Appendix E.) We have decided, however, to *include* commercial time in the source of classifications used in the Annual Programming Report and new Section IV–B.

155. Although we may wish to re-evaluate our decision at some future date, we will continue for the present to separate "News" and "Public Affairs". We understand that it is sometimes difficult to distinguish between the two types of programming, but past experience with the definitions indicates that normally the distinction can be made. Moreover, the licensee will be required to briefly describe the composite week programming he has classified as "News" or "Public Affairs" in

[9] Stations in the Central Time Zone and Mountain Time Zone shall use 5–10 PM rather than 6–11 PM.

his Annual Programming Report. These program descriptions will help reveal the fact that a program segment listed by the licensee as "Public Affairs" could be categorized by another licensee and/or the Commission as "News".

Question 6

156. Support for Question 6 of the proposed Annual Reporting Form (which corresponds to Question 13 of the proposed new Section IV–B of Form 303) comes from ABC, United Church and BEST. BEST thinks the question would be a vast improvement over the only question in present Section IV–B dealing with network affiliation. But other parties oppose the question and recommend its deletion. NBC says that while it believes affiliates should carry network public affairs programs, stations failing to carry them are not *ipso facto* failing to serve viewer's needs, nor should they be called by the Commission to account for their failure in each and every case. NBC also objects to the implication that stations must make a direct substitution of some comparable program if it pre-empts a network public affairs series. The affiliate may wish to program a local public affairs series at some other hour. WGBF argues that service should be evaluated on programs carried, not upon programs available and not carried. McClatchy notes that the Commission's 1960 policy Statement says licensees should not be required to record and justify their individual programming decisions in terms of anything other than an overall operation in the public interest.

157. Several filings claim the question will have the affect of compelling affiliates to carry network public affairs programs because no station will be willing to assume the risk of being criticized for not carrying them. Cohn & Marks claims that promoting the views of those who control and direct network public affairs programming rather than promoting the dissemination of the widest possible gamut of views would be contrary to the public interest as reflected in the First Amendment. Corinthian maintains that Question 5 is inconsistent with the emphasis on local programming in Docket 19154. Mt. Mansfield urges the Commission to clarify the purpose of the question and to explain why it is interested in the programs which the licensee substitutes for network programs he judges to be unsatisfactory.

158. Three parties suggest expansion of Question 6. Baldwin thinks the question should be expanded to determine if network public affairs was carried on a delayed basis, and if so, when it was originally scheduled and when it was aired. Baldwin submits that the proposed question does not distinguish between programs carried at the same time as they were aired by the network and programs carried on a delayed basis, perhaps at very inconvenient hours for the majority of viewers. ABC recommends the question be expanded to require affiliates to report on clearance of network news programs, and if such programs were carried on a delayed basis, to require the licensee to explain why this was done. United Church feels the question should be expanded to require licensees to report on clearance of all network programs, including entertainment. United Church refers to criticism raised by minorities after pre-emptions of certain network entertainment programs featuring such entertainers as Sammy Davis, Jr.

159. Conclusions. While we have decided not to require the detailed information proposed regarding each network news or public affairs program never carried and the programs aired instead, we agree with ABC that some information regarding clearance of network news as well as network public affairs would be useful. Thus we have included as Question 5 of new Section IV–B of Form 303 the following:

> 5.A. If during the license period the applicant was affiliated with one or more national television network, indicate below the name of the network or networks and the dates of affiliation.
>
> B. If a network affiliate, did the applicant regularly carry (i.e, carry more than 50% of the programs offered during the current license period) available network:
>
> | | Yes | No |
> |---|---|---|
> | (a) News | ☐ | ☐ |
> | (b) Public Affairs | ☐ | ☐ |

160. In including the revised question, we do not suggest that stations failing to carry a majority of the network news or public affairs programming offered them are *ipso facto* failing to serve viewers' needs. Nor do we wish to imply that the carriage of any particular network news or public affairs program is necessarily in the public interest. This Commission has long recognized the principle that a licensee can, and indeed must, make his own judgments as to whether a particular program or series should or should not be presented over his facilities, irrespective of the source of the preferred material. Further, we agree that service should primarily be evaluated on the basis of programs carried rather than on those not carried, and that the overall operation of the station should be the determining factor at renewal time. The fact remains, however, that public affairs and news programming has long been recognized as contributing to an informed electorate and as an important element of program service, and the proposed question provides relevant information regarding programming of public affairs and news. The information obtained from the question will supplement information obtained from the annual quantification and description of composite week public affairs and news programming, and information regarding public affairs and news programming contained in the annual listing and description of programs and program segments directed to help meet significant local problems and needs of the service area. The sum total of information will enable both the public and the Commission to make a much more informed evaluation than is now possible regarding a renewal applicant's decisions during the current license period with respect to the programming of public affairs and news.

Recommended Additional Questions on the Annual Reporting Form

161. Westinghouse thinks the Annual Reporting Form should have a question enabling stations to submit additional information if they consider the composite week data for the year in question to be unrepresentative of overall performance in that year. Such a question would correspond with Question 14 of the current Section IV–B of Form 303. ACT recommends and United Church supports the addition of

the following questions to both the Annual Reporting Form and revised Section IV–B of Form 303.

1. Did the licensee provide news or informational programs aimed at children? State the names of such programs, a brief description and the time aired.
2. At what time and how often did the licensee provide talks, discussions or documentaries designed specifically to meet the interests of children of a specific age group?
3. What programs were aired to entertain children? What age groups were the programs designed for and at what times of day were they aired?
4. What locally produced children's programs were presented by the licensee? At what times of day were they aired?

162. ACT claims that a definition of children's programs can be agreed upon. It notes that all three networks have Vice Presidents in Charge of Children's Programs and assume that the networks thus know what is meant by "children's programs." ACT indicates it considers the Commission's definition of children's programs included in its Notice of Inquiry and Proposed Rulemaking regarding the ACT petition (Docket 19142) to be acceptable.

163. *Conclusions:* Licensees will be given the opportunity at renewal time to submit additional information if they consider data from license period composite weeks in the Annual Reporting Form to be unrepresentative of overall performance during the year in question (see Question 7B in new Section IV–B in Appendix E). But as we stated in the Notice we do not intend to evaluate the licensee's overall program performance until renewal time and we are not initiating an annual renewal process. In order to prevent any possible confusion regarding our intention, we will not add a question on the Annual Reporting Form enabling stations each year to supply additional information if they consider the composite week data they are submitting to be unrepresentative of overall performance during the year.

164. To underline our interest in children's programming aired on television (see Notice of Inquiry and Notice of Proposed Rulemaking in the matter of the ACT Petition, Docket 19142). We have added as Question 6 of the new Section IV–B of Form 303 the following (See Appendix E):

> Attach as Exhibit—a brief description of programs, program segments or program series aired during the license period that were primarily directed to children twelve years old and under. Indicate the source, time and day of broadcast, duration and program type.

Filing Dates of the Annual Reporting Form

165. Dempsey and Koplovitz recommends that stations file on the first day of the sixth month preceding the anniversary of the expiration date, because data related to the expiration date would be substantially less burdensome to compile and would provide more meaningful year-to-year comparisons. Storer contends that the first Annual Reporting Form after license renewal should cover the 12-month period beginning with the anniversary of the license period. NBC submits that the Commission should allow 2 or 3 months between announcement of the composite week and the filing of the Annual Reporting Form, and that at least 2 of these months should not be in

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July or August which are vacation months for both the Communications Bar and station personnel. Gill recommends no less than 60 days between announcement of composite week and filing date of the Annual Reporting Form, while CBS suggests at least 12 weeks.

166. Several parties argue that in the year in which a station files his renewal application (Form 303), the station should not be required to also file an Annual Reporting Form. NBC and Sonderling talk about the duplication that would result from two filings the same year, duplication that would violate Section 307(d) of the Act. CBS, Dempsey, & Koplovitz and Storer maintain that the third year report will be, in effect, included in the renewal application. On the other hand, BEST says Annual Reporting Forms should be required from stations filing renewal applications that year since failure to file the form in the renewal year would leave a gap in data. BEST notes that Questions 1 and 2 of the Annual Reporting Form are framed in terms of the preceding 12 months and Questions 3, 4, and 5 of the form are framed in terms of the composite week.

167. *Conclusions:* As we have previously indicated, we have decided that the only information which licensees will be required to send annually to Washington will be composite week data regarding programming of "News", "Public Affairs" and "Other". With respect to the matter of duplicative questions, we note that no questions on the Annual Programming Report we are adopting duplicates or is duplicated by a Question in the new Section IV–B of Form 303 found in Appendix E.

168. As has also been previously indicated, we will require that the annual listings of significant problems and needs and programs aired to help meet those problems and needs be placed in the licensee's public inspection file each year on the anniversary date on which renewal applications are due. Upon renewal filing the three lists covering the current license period (including the list which is to be placed in the public inspection file when the renewal application is filed) will be forwarded to us. (See Question 1 in the new Section IV–B of Form 303 in Appendix E). These lists will not duplicate information required by other questions in new Section IV–B.

General Comments Regarding the Proposed New Section IV of Form 303

169. Three parties argue that the Commission should delay revising the renewal form until Docket 19154[10] is resolved. WGN says that it expects a new renewal form to result from Docket 19154, but that no useful purpose would be served by adopting a new form in the meantime. Storer contends that Dockets 19153 and 19154 must be considered together and their provisions coordinated. Storer is joined by NAB in maintaining that the *Citizens Communications Center* v. *FCC* (Case No. 24,471 decided June 11, 1971) makes any proposed revision of the renewal form inappropriate.

170. Storer also submits that broadcasters should aid the Commission in drafting any revision of the renewal form because only broad-

[10] Notice of Inquiry in the Matter of Formulation of Policies Relating to the Broadcast Renewal Applicant Stemming from the Comparative Hearing Process (36 FR 3939).

casters experienced with the preparation of Commission applications have the expertise necessary to evaluate the full practicability, burden and effect of the FCC program forms.

171. *Conclusions:* After a detailed review of the filings in Docket 19154 at a special Commission meeting in March, 1972, and after hearing oral arguments en banc on Docket 19154 in May, 1972, we have concluded that we should proceed with terminating this proceeding (Docket 19153) even though the issues in Docket 19154 are still outstanding. We believe the new Section IV–B of Form 303 we have adopted today will provide the necessary information concerning the performance of television licensees, regardless of the final outcome of the attempt to establish criteria for defining "substantial" or "superior" service.

172. The new Section IV–B is, of course, subject to Office of Management and Budget (OMB) approval. Broadcasters and other interested parties will have an opportunity to comment on each individual question included in the new Section before a representative of OMB in open session. In addition, broadcasters and other interested parties were given more than five months to file comments in response to the Section IV–B proposed in the Notice, and these comments were carefully evaluated in considering revisions to that proposal and to the existing Section IV–B. We do not, therefore, consider it necessary to have any additional conversations with broadcasters regarding new Section IV–B prior to our submission of the new Section to OMB.

Comments Regarding Individual Questions in Proposed Section IV–B of Form 303—General Comments

173. Westinghouse and Mt. Mansfield state the Commission should delete those questions from proposed Section IV–B of Form 303 which are included on the Annual Reporting Form (e.g., Questions 1, 2, 8, 9a, 10A and 13 of proposed Section IV–B), because the information received would be redundant.

174. *Conclusions:* With the incorporation of the previously outlined changes to our proposals in the Notice, there are no longer any questions in the new Section IV–B which also appear on the Annual Reporting Form.

Questions 1 and 2

175. Sonderling maintains that Questions 1 and 2 (concerning problems, needs and programs directed to them) should be deleted because they contain unnecessary information not directly material to considerations affecting granting or denial of the renewal and therefore violate Section 307(d) of the Act.

176. *Conclusions:* As has been indicated, licensees will be required to annually list significant local problems and needs of their service area and programs aired to help meet those problems and needs. These lists will be placed in the public inspection file each year on the anniversary date on which renewal applications are due, and upon filing of the renewal application, the three lists covering the current license period (including the list placed in the public inspection file upon

submission of the renewal application) will be sent to the Commission. These lists will provide information which is directly material to affecting the granting or denial of renewal.

Question 3

177. North Carolina and Dempsey and Koplovitz feel that Question 3 should be deleted. North Carolina argues that the question is inconsistent with the general spirit of the revisions in Docket 19153 because it emphasizes problems and programs rather than the method of ascertainment. The licensee is either aware or not aware of the needs of his community and does or does not program to meet them. How these needs were ascertained is, according to North Carolina, wholly irrelevant. Dempsey & Koplovitz contend that since the Commission has not stated any intention to make an evaluation of methods used, the question should be deleted as it incorporates vestigial remnants of a procedure which is no longer relevant.

178. Gill, NAB, Sonderling, Dempsey and Koplovitz, NOW, and Foley think the Commission should articulate standards expected of the applicant in answering Question 3, if Question 3 is retained. NAB submits that without the standards the question could be the starting point for a whole new series of interpretations as to the proper methods of ascertainment. Sonderling and NOW maintain the Commission must clarify whether or not licensees will be expected to conduct a formal survey of community leaders and representatives of the public. NOW suggests that such a survey should definitely be retained. Foley recommends the survey be retained and recommends that even if the Commission does not require an evaluation of the findings and of the relative importance of community problems, it should require some report and tabulation of the findings. Foley says his study of 1971 renewal application demonstrates most stations are not now including anything more than raw data.

179. On the other hand, Baldwin does not think the Commission should articulate standards expected of the applicant in answering Question 3. Baldwin submits research findings which indicate that the product of the various methods of studying communities varies in accordance with the nature of the community and the station. Baldwin believes the Commission should permit further experimentation by stations in arriving at appropriate means and recommends that the Commission, without specifying guidelines, merely indicate that stations should be responsible for the validity of the methods used.

180. *Conclusions:* As indicated earlier, we have determined that commercial television licensees should be asked to certify in their renewal applications that they have followed the Commission's current guidelines in ascertaining the problems and needs of the station's service area and, upon filing the renewal application, have placed all relevant materials regarding their ascertainment procedures in the local public inspection file. (See Question 1 of new Section IV–B of Form 303 in Appendix E.) As we have also mentioned, the question of whether the existing ascertainment requirements (the Primer) should be revised is the subject of a recent Notice of Inquiry (Docket 19715).

181. As we have previously noted, the ascertainment reporting approach we have adopted today, including the annual listing of significant problems and needs and programs aired to help meet those problems and needs, emphasizes problems and needs and programs aired rather than methods of ascertainment of problems and needs. But it also recognizes that ascertainment is necessary and continuing ascertainment is to be encouraged; that guidelines for ascertainment are desirable; that members of the public have an interest in knowing how the licensee arrived at his conception of significant local problems and needs; and that the Commission might have cause to ask to see ascertainment support materials, either because a question regarding adequacy of ascertainment has arisen or because the Commission wants to reassure itself that (through examination of ascertainment support material of a random sample of stations) that proper ascertainment is taking place.

Questions 4 and 5

182. Deletion of Question 4 is suggested by Sonderling, CBS, WGN, Corinthian, Flower City, Dempsey & Koplovitz and BEST. These parties maintain that the exhibits would be entirely speculative and would furnish no useful information. With regard to Question 5, WGN thinks the question should be deleted while Corinthian says the question is unduly confined if it is meant to cover only new program series as opposed to new individual programs within established program series. Dempsey & Koplovitz and BEST recommend that the Commission require identification of past programs that will be contiuned or resumed. BEST says Question 5 fails to determine if existing programs are being dropped. Thus a station could list in answering Question 5 a replacement for an existing program which was listed in answering Question 2, and there is no way for the public or the Commission to know this is being done.

183. *Conclusions:* After careful re-evaluation of proposed Questions 4 and 5 and analysis of the answers we have received to Questions 1B and 1C in Part I of present Section IV–B of Form 303, we agree that asking the applicant to speculate on the problems and needs of the entire upcoming license period may result in information which is overspeculative in nature. But we believe the renewal applicant should be given an opportunity to include in his renewal application an expression of intent in the immediate future to deal with a problem or need which was recently determined or called to his attention and was not included in his annual listing of problems and needs for the preceding twelve months. We therefore have decided in lieu of proposed Questions 4 and 5, to include as Question 2 of the new Section IV–B the following:

> "In Exhibit — the applicant may (at his option) list any problem or need of immediate concern which, as the result of his recent ascertainment efforts, he believes will be added to his next annual list of significant problems and needs of his service area, and any program or programs he plans to broadcast during the next twelve months devoted to that problem or need."

Question 6

184. Deletion of Question 6 is urged by Sonderling, Flower City and Dempsey & Koplovitz. Sonderling says the station might change

its methods of ascertainment and yet not serve the public. Flower City thinks the licensee will merely set forth the current Commission standard, which is now the Primer. Dempsey & Koplovitz maintain that the question will not furnish useful or meaningful information to the Commission, especially in view of the elimination of the Primer requirements.

185. *Conclusions:* In view of the previously described change in the method of ascertainment reporting from what was proposed in the Notice, and our decision to retain the Primer (pending the outcome of our formal Inquiry regarding ascertainment), we have decided to eliminate proposed Question 6 from the new Section IV–B.

Question 7

186. A number of filings discuss Question 7. NBC, CBS, Westinghouse and others talk about the burden the question would impose upon licensees. NBC and North Carolina suggest that if the complainant wants to bring his complaint to the Commission's attention he may do so. CBS maintains that the requirement would probably be meaningless to the renewal processes and would impinge upon important First Amendment, copyright, privacy, and other rights. CBS also believes the requirement to be inconsistent with Question 24 in the Primer which says that the evaluation of needs need not be included in the application, and inconsistent with *Sioux Empire Broadcasting* (16 FCC 2d 995) where the Commission indicated that its review of the applicant's evaluation will be by reviewing the broadcast matter proposed, rather than intruding on the licensee's "thought process". Gill contends the Commission must provide a justification for the question and must provide guidelines regarding the extent of the answer. Dempsey & Koplovitz predict that without clear guidelines the Commission will either receive boilerplate answers or an overwhelming amount of details. McClatchy and Basic submit that a thorough description of complaint handling procedures should be all that is required.

187. Others feel Question 7 should be strengthened. Urban Law recommends the Commission add a requirement that the licensee summarize and comment on complaints and suggestions received regarding the station's listing of problems and needs and programs devoted to them. BEST thinks Question 1D on the current form (asking the licensee to describe his procedures for considering and disposing of complaints and suggestions) should be added to proposed Question 7.

188. *Conclusions:* After careful consideration of the comments filed and reevaluation of the difficulties that would be encountered in providing general guidelines for licensees in answering the proposed Question 7, we have decided to eliminate the question from new Section IV–B. But we have retained the option for renewal applicants to describe present and proposed procedures for considering and disposing of complaints and suggestions from members of the public. Licensees will, of course, also be required under new Section 73.1202 of the Commission's Rules (see Appendix C) to retain a file of letters from members of the public, and we could always ask individual renewal applicants to provide specifics regarding that file should such a request be deemed necessary.

Questions 8, 9, and 10

189. Questions 8, 9 and 10 of the proposed new Section IV of Form 303 correspond to Questions 3, 4 and 5 of the proposed Annual Reporting Form. Comments regarding these questions have been discussed in paragraphs 131–135 which review comments regarding Questions 3, 4 and 5 of the Annual Reporting Form.

190. *Conclusions:* To eliminate redundancy of information, proposed Questions 8, 9 and 10 have been eliminated from new Section IV–B. The information that would have been obtained from these questions would have duplicated that obtained from the most recent Annual Reporting Form.

Question 11

191. Revision of Question 11 is recommended in several filings. NBC says that the requirement to give the number of PSAs involving local organizations should be dropped because it is the substance of the PSA rather than the source that is of consequence. Others contend that the phrase "involving local organizations" is ambiguous. Dempsey wonders whether it is the location of offices or the degree of local activity that is important. Sonderling asks if PSAs on behalf of the local Army recruiting station or local Chapter of the Red Cross would be considered to involve local organizations. Flower City questions why PSAs of less worthy local organizations should be preferred over more significant PSAs for national causes.

192. Three parties comment on the time periods indicated in Question 11. BEST recommends that the time categories be refined to show the number of PSAs aired in each time segment listed on the licensee's rate card. Sonderling objects to breaking down PSAs into any time segments and questions whether there is any empirical evidence to indicate a difference between PSAs aired between 8 AM–11 PM and PSAs aired between 11 PM–8 AM. KRGV–TV says that stations cannot run all PSAs in prime time unless it's the annual United Fund Drive or something similar.

193. *Conclusions:* Proposed Question 11 has been included without amendment as Question 4 in new Section IV–B found in Appendix E. We believe the breakdown in PSA's by time of day and the differentiation between those PSAs that involve local organizations and those that do not is a considerable improvement over Question 9 of current Section IV–B which merely asks for the total number of PSAs during the composite week. Examination of composite week logs furnished by renewal applicants suggests that similarities in the total number of PSAs for the week does not necessarily mean similarities in the nature of the PSAs or in the time of day in which they were aired. We do not mean to imply that all PSAs should be aired in prime time or between 8 AM–11 PM or that PSAs involving local organizations are always to be preferred over PSAs that do not involve local organizations. But we believe we should continue to solicit information regarding PSAs and the proposed Question is to be preferred as providing more information than the current Question.

194. We do not think that the phrase "involving local organizations" will provide serious definitional problems, but if experience demonstrates otherwise, we will take the necessary steps to clarify

the phrase. To answer the specific inquiries cited in paragraph 191 regarding this phrase, we think the degree of local activity is more important in determining whether or not local organizations are involved than is the mere location of offices. Thus the PSA on behalf of the local Army recruiting stations should not be classified as involving a local organization, and the PSA on behalf of the local Red Cross should only be classified as involving a local organization if the local Red Cross chapter was actually involved in the process of preparing the PSA or the PSA contains specific reference to the activities of the local Red Cross office.

Question 12

195. ACT recommends that the Commission require the licensee in Question 12 to state the total number of commercials and the total amount of time devoted to commercial content during the children's programming aired during the most recent composite week. ACT would, as in the case of its recommended questions to be added to the Annual Reporting Form, be willing to accept the Commission's definition of children's programming included in its Notice of Inquiry and Proposed Rulemaking regarding the ACT petition. (Docket 19142).

196. Conclusion: As indicated in paragraph 164, Question 6 has been added to new Section IV–B to provide general information regarding programming aired by the renewal applicant during the current license period that was primarily directed to children twelve years old and under. We do not think however, that Question 12 should be amended as ACT suggests prior to the resolution of the issues in the Notice of Inquiry and Notice of Proposed Rulemaking regarding children's programming (Docket 19142). One change that has been incorporated in revised Section IV–B in order to obtain additional information regarding broadcasting of commercial matter (the subject of proposed Question 12) is the addition of questions concerning past and proposed programming of commercials during prime time. (See Questions 12 and 15 of new Section IV–B of Form 303 in Appendix E.)

Question 13

197. Proposed Question 13 of new Section IV–B of Form 303 corresponds to proposed Question 6 of the Annual Reporting Form. Comments and Conclusions regarding this Question are discussed in paragraphs 156–160.

Objections to Deletion of Questions to Present Section IV–B of Form 303

198. BEST argues that even though the Commission is not using certain questions in the present Section IV–B in determining if the public interest will be served by granting renewal, these questions should be retained because they provide information which could be of significant value to citizen groups. BEST objects to the elimination of Question 10C and 19C of current Section IV–B, claiming they are the only two questions that relate to promise vs. performance. Question 10C of current Section IV–B provides the applicant with the opportunity to explain any substantial variations between the programming representations made in the last renewal application and

the programming practices revealed in the current application, and Question 19C of the current form asks the applicant to explain any substantial variations between the commercial representations made in his last renewal application and his commercial practices during the composite week.

199. Sonderling asks why the Commission dropped the questions in current Section IV–B regarding news staff, news facilities and overall staff (Questions 6, 14 and 25 of the current form). Sonderling thinks all three questions should be retained. BEST wonders why the questions regarding the amount of news devoted to and planned to be devoted to local and regional news were dropped, since the information is vital to assuring that local service really is local.

200. BEST maintains that most of Part VI of current Section IV–B should be retained in new Section IV–B. BEST states that giving the names and positions of the people who determine the day-to-day programming of the station allows the public to know who has responsibility for various decisions, and *Question 22* (asking the applicant to summarize his programming and advertising standards) provides information which is a matter of increasing concern to the public. BEST contends that *Question 23* of current Section IV–B (asking the applicant to state the methods by which he keeps informed of the requirements of the Act and the Commission's Rules and how he keeps his employees informed of same) is a relevant inquiry, and *Question 26* (asking the applicant to give examples to illustrate a policy of broadcasting programs to meet needs, regardless of whether or not commercial sponsorship is available or appropriate, and a policy of pre-empting time to present special programs) is clearly a question which reveals performance in the public interest. Sonderling concurs in BEST's requests that Question 22 be retained in new Section IV–B.

201. BEST notes that Questions 7 and 14 of current Section IV–B asking the licensee to describe his present and proposed policies with respect to making time available for the discussion of public issues and his method of selecting subjects and participants were also dropped. BEST maintains that both on principles of law and on practicabilities of assuring citizen participation, the Commission should be requiring more information, not less, and in light of the increasing focus on the problem of access, deletion of the questions seems ill-advised.

202. *Conclusions:* We agree with BEST's contention that new Section IV–B should retain questions asking the licensee to explain any substantial variations that may exist between representations made in his last renewal application regarding programming or commercial practices, and the programming or commercial practices reflected in the current renewal application and the Annual Reporting Forms covering the current license period. For that reason we have included Questions 7C and 13C in new Section IV–B to correspond with Questions 10C and 19C of the current Section IV–B.

203. We have not, however, retained any of the other questions which BEST and Sonderling suggest be retained because we have not always used them in making our public interest determination regarding the renewal applicant and thus requiring them might, in some instances,

be in violation of Section 307(d) of the Communications Act. Questions on the current form regarding news staff, for example, have sometimes provided unreliable information due to the variance in the definitions of news staff from station to station. Estimate of percentages of news coverage devoted to local and regional news have sometimes been unreliable for similar reasons. Moreover, we believe attempts to ensure that local service is in fact local will be far more realizable through analysis of the annual listing of programs and program segments aired to help meet the significant local problems and needs of the service area.

204. Experience with open ended questions regarding policy of preemptions, methods of keeping informed of Commission Rules, policies regarding discussion of controversial issues, and programming and advertising standards, has demonstrated that without adequate guidelines for answering the question and without criteria as to how the answers are to be evaluated by the Commission staff, these answers cannot always be used in our public interest determination. And experience suggests that such guidelines and criteria cannot always be formulated to our satisfaction. Thus we will not retain these open ended questions in new Section IV–B.[11] If, however, there is a question concerning an individual renewal applicant's policies regarding discussion of controversial issues, programming standards, methods of keeping informed of Commission regulations, etc., we will ask that applicant to respond to the specific question that may have arisen.

Recommended Additional Questions in New Section IV–B of Form 303

205. Recommendations for inclusion of additional questions in new Section IV–B were received from ACT, BEST and United Church. As discussed in paragraph 161, ACT asks that a series of questions regarding children's programming be added to both the Annual Reporting Form and Section IV–B. BEST recommends a question be added which relates to the present methods of ascertainment, because proposed Question 3 relates to the past and proposed Question 6 to the future. United Church recommends that a question be added to give licensees the opportunity to list entertainment programs they consider to be of special value. United Church notes that *Red Lion* speaks of the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences. The proposed form limits the data to social and political material. The new question would permit the licensee to distinguish the premiere of a new ballet or a children's program of recognized worth, from a cartoon or a rerun of a situation comedy.

206. *Conclusions:* As indicated in paragraph 164. We have included a question in new Section IV–B concerning programming primarily directed towards children twelve years old and under. (See Question 6 in Appendix E). In response to the recommendation of United Church that renewal applicants be given the opportunity to list entertainment programs they consider to be of special value, Question 7B of new

[11] In the Notice we indicated we would consider a revised renewal form for commercial radio licensees. At that time we will consider whether we should delete some of the open ended questions in Section IV–A of Form 303 that correspond with those open ended questions in current Section IV–B which are now being deleted.

Section IV–B has been re-written to invite those licensees who wish to provide additional information to accurately and fairly present their program service, to list entertainment programs they consider to be of special merit.

The Use of Programming Statistics in the Notice in Processing Renewal Applications and the Proposed Ranking Procedure

207. The Commission indicated that the nationwide annual programming statistics derived from the Annual Reporting Form would be used to compile a nationwide data base. When the data base became available, the Commission would rank each commercial television station within a yet to be determined grouping in each critical programming category, including "News," "Public Affairs," "Other" and "Local." The staff would then be instructed to closely scrutinize the renewal applications of those stations whose ranking fell below an appropriate level (as for example 10%) and make a summary report of those applications to the Commission. The Commission emphasized that it was not to be implied that all such applicants would be designated for hearing or even subjected to further inquiry. Rather, the purpose of the process was to ensure close scrutiny of all such applicants in order to delineate those whose performance was of such a borderline nature as to warrant inquiry and further showing. The grouping of stations and the levels below which stations would receive close scrutiny would, when determined by the Commission, be made a matter of public record. The Commission suggested that groupings might be determined by market, by revenues or by a combination of factors, and specifically asked for comments regarding appropriate groupings.

208. Comments were received regarding both the refinements in statistics that will result from the new questions in Section IV–B and the Annual Reporting Forms, and the Commission's intention to group stations and focus particular attention on those applicants below a certain cutoff point. BEST and United Church support the changes with certain reservations, and submit that the separation of local programming into "News," "Public Affairs" and "Other" during 6–11 PM is especially important. In discussing the grouping and cutoff point approach, BEST maintains that while it is reasonable to require an exhaustive inquiry for any station below the appropriate level, all stations should at least receive normal staff review at renewal time and there should be no presumption that licensees are serving the public interest simply because they are above the cutoff point. Moreover, the extent of community dialogue, hiring policies, etc., should remain subject to challenge by a petition to deny. United Church supports refining statistics by time periods and annual ranking, but it cautions the Commission that a purely quantitative approach to evaluation of program service may not present the complete picture.

209. Various parties fear that the Commission's proposed approach unduly emphasizes quantity vs. quality. Gill, for example, says there is no easy way to evaluate programming and any quantitative approach can only delude people. NAB says the Commission's approach ignores the qualitative aspects of programming and thoroughly injects

the Commission into areas of programming control precluded by Section 326 of the Act. Corinthian and Storer both cite *Evening Star Broadcasting Co.* (27 FCC 2d 316) in which the Commission stated that it has never made a public interest determination on the basis of comparative rankings and indicated such determination must be made on the basis of the licensee's individual performance, regardless of program percentages compiled by other local stations. AWRT claims that statistical measurement will necessarily be distorted if it does not deal generally with entertainment programming in determining how responsive a television station's programming is to community needs.

210. The Commission specifically asked for comments regarding the proper grouping of stations in any ranking procedure. Nebraska maintains that there is no way of grouping stations in an intelligent and equitable manner. KUTV says that regardless of how sensitive the grouping criteria are, it is inevitable that they will be arbitrary, and to a greater or lesser extent, chickens will be compared to geese and horses to mules. BEST contends it can make no meaningful suggestions until information regarding the financial structure of the industry is available to it. BEST argues that groupings must, at least in part, reflect revenues and profitability.

211. *Conclusions:* As has been indicated in paragraph 121, we are not adopting a ranking procedure such as that proposed in the Notice which would automatically determine which renewal applications would continue to be processed and approved solely by the staff under delegated authority and which would only be approved by the Commission. We recognize, however, that on occasion demands of staff and resources may well prevent the Broadcast Bureau from devoting all the attention it would like to devote to each renewal application in a given renewal group. In such circumstances the annual statistical profiles of individual stations in the renewal group used in conjunction with statistics indicating the programming of all other similar stations during the identical period might well be used by the staff in rapidly selecting those applications which would receive the greatest amount of time and attention.

The Length of Exhibits

212. In our discussions regarding the adoption of the new Section IV–B of Form 303 we have noted with some concern the continuing increase in the length of Exhibits filed with the Commission in conjunction with the current renewal form. We feel it would be desirable to reverse this trend, but we do not want to inhibit licensees from providing the public in their service area with more elaborate details regarding their programming efforts than we may deem necessary to make the requisite public interest finding. Such elaboration might promote the continuing dialogue between licensee and citizen which we have mentioned throughout this Report and Order. For this reason we have decided to impose a page limitation on the Exhibits submitted to the Commission, but to permit licensees (at their option) to supplement these Exhibits by placing in their public inspection file additional material, identified as a continuation of the information submitted to the Commission and subject to Commission inspection.

Instructions to this effect will be included at the beginning of Section IV–B of Form 303 (See the note at the top of the first page of Appendix E of this Report and Order.) The instructions will also make it clear that before the Commission would make and adverse finding regarding a renewal application, the licensee in question would be permitted to supplement his initial showing to the Commission by submitting any additional material which may be relevant, including (but not necessarily limited to) the additional material which may have already been placed in the public file.

Authority and Orders

213. The authority for the adoption of the amendments contained in the Appendices hereto is set forth in Sections 4(i), 4(j), 303, 307, 308, 309, 311(a), and 315(a) of the Communications Act of 1934, as amended.

214. Accordingly, it is ordered that Parts 1 and 73 of the Commission's Rules are amended as set forth in Appendices B and C hereto. This document will not be published in the Federal Register until the Annual Programming Report and Section IV–B of Form 303 (Appendices D and E hereto) are cleared by the Office of Management and Budget. The rules will be effective 30 days after Federal Register publication. The time for filing petitions for reconsideration will also run from the date of publication.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary.*

APPENDIX A

PARTIES FILING COMMENTS

(*Indicates Reply Comments Also Filed)
(**Indicates Only Reply Comments Filed)

Action for Children's Television (ACT)
American Broadcasting Company (ABC)
American Civil Liberties Union (ACLU)
American Women in Radio and Television, Inc. (AWRT)
Anna Broadcasting Company, Inc. (WRAJ)
Basic Communications, Inc., *et al.* (Basic)
  Basic Communications, Inc.
  Belton Broadcasters, Inc.
  BFR Broadcasting
  Big C Broadcasting Corporation
  Broadcast Consultants Corporation
  Cox Broadcasting Corporation
  Daily Telegraph Printing Co.
  Guy Gannett Broadcasting Services
  Hearst Radio, Inc.
  Mid-America Television Company
  Midcontinent Broadcasting Co.
  Mount Hood Radio and Television Broadcasting Corporation
  Mullins Broadcasting Co.

Multimedia, Inc.
Newhouse Broadcasting Corporation
Northeastern Indiana Radio, Inc.
Northwestern Publishing Co. Inc.
Palmer Broadcasting Co.
Quincy Broadcasting Co.
Radio Medford, Inc.
Radio Redding, Inc.
Rock Island Broadcasting Co.
Scranton Broadcasters, Inc.
Southern Wisconsin Radio, Inc.
Stauffer Publications
Truth Publishing Co.
Truth Radio Corporation
Turner Broadcasting Corporation
Unicom, Inc.
United Television, Inc.
Walter-Weeks Broadcasting, Inc.
WBNS–TV, Inc.
WCSC, Inc.
West Bend Broadcasting Co.
WHEC, Inc.
WHP, Inc.
The WHYN Stations, Corporation
WJAC, Incorporated
WLAC–TV, Inc.
WLOL–FM, Corporation
WOC Broadcasting Co.
WUNI, Inc.

Black Efforts for Soul in Television* (BEST)
Carter Publications, Inc. and Gulf Coast Broadcasting Company (Carter)
The Chesapeake Broadcasting Corporation (WASA)
Cohn & Marks, Law Offices of (Cohn & Marks)
Columbia Broadcasting System, Inc. (CBS)
Community Broadcasting Company (KRSN)
The Corinthian Stations and the Orion Stations (Corinthian)
Dempsey & Koplovitz, Law Offices of (Dempsey & Koplovitz)
Fetzer Television Corporation, *et. al.* (Fetzer)
Fetzer Television Corporation
Cornhusker Television Corporation
Fetzer Broadcasting Company
Medallion Broadcasters, Inc.
Flower City Television Corporation, *et. al.* (Flower City)
Flower City Television Corporation
Lee Enterprises, Inc.
Time-Life Broadcast, Inc.
WDSU–TV, Inc.
WKY Television System, Inc.
Professor Joseph M. Foley** (Foley)
Robert S. Gelman (Gelman)
General Electric Broadcasting Co., Inc. (GE)
Gill Industries, *et. al.* (Gill)
Gill Industries
Leake TV, Inc.
Pikes Peak Broadcasting Co.
Screen Gems Stations, Inc.
WAPA–TV Broadcasting Corporation
WBEN, Inc.
Heart O'Wisconsin Broadcasters, Inc. (Heart O'Wisconsin)
International Broadcasting Corp. and Southwestern Broadcasting Corp. (International)

KAKC, AM and FM, *et al.* (KAKC)
- KAKC, AM and FM, Tulsa, Okla.
- KFUN, Las Vegas, N.M.
- WIOK, Normal, Ill.
- WCCW, Traverse, Mich.
- WBMJ, San Juan, P.R.
- KVEC, San Luis Obispo, Calif.
- KMBY, Monterey, Calif.
- WBIP, Booneville, Miss.
- KBOX, AM and FM, Dallas, Texas
- WONE, AM and FM, Dayton, Ohio
- WLTN, Littleton, N.H.
- KFAB, AM and FM, Omaha, Nebr.
- WEKR, Fayetteville, Tenn.
- WWCA, Gary, Ind.
- WLOI, AM and FM, LaPorte, Ind.
- WJOR, South Haven, Mich.
- WTUP, Tupelo, Miss.
- KKUA, Honolulu, Hawaii
- WOKJ, Jackson, Miss.
- WBET, AM and FM, Brockton, Mass.
- WGUS, North Augusta, S.C.
- WPEA, Pensacola, Fla.
- WSHO, New Orleans, La.
- WFHR, AM and FM, Wisc. Rapids, Wisc.
- WTUG, Tuscaloosa, Ala.
- WTMT, Louisville, Ky.
- KVGB, Great Bend, Kans.
- WRAG, AM and FM, Carrollton, Ala.
- WMAG, Forest, Miss.
- WRUS, AM and FM, Russellville, Ky.
- WKIZ, WFYN-FM, Key West, Fla.
- KRUS, AM and FM, Suston, La.
- WXLI, AM and FM, Dublin, Georgia
- KGMS, Sacramento, Calif.
- WFDF, Flint, Mich.
- KMMJ, Grand Island, Nebr.
- KKIT, Taos, N.M.
- KXXX, AM and FM, Colby, Kans.
- WHBO, Tampa, Fla.
- WOPI, AM and FM, Bristol, Tenn.
- WVOJ, Jacksonville, Fla.
- WMAD, AM and FM, Madison, Wisc.
- KORS, AM and FM, Minneapolis, Minn.
- WCMB, WSFM (FM), Harrisburg, Pa.
- WMEN, Baton Rouge, La.
- WKAU, AM and FM, Kaukauna, Wisc.
- WGCM, WTAM (FM), Gulfport, Miss.
- WBOP, AM and FM, Pensacola, Fla.
- KRAK, Sacramento, Calif.
- KFAX, San Francisco, Calif.
- WHIE, Griffin, Ga.
- WENO, Madison, Tenn.
- WSAU, AM and FM, Wausau, Wisc.

Kansas Association of Broadcasters (Kansas)
KBMN Radio (KBMN)
KGUD, Inc. (KGUD)
KIIX
KRGV-TV
KUTV, Inc. (KUTV)
KWNA Radio (KWNA)
KWRO, Inc. (KWRO)
Lebanon Broadcasting Company (Lebanon)
Louisiana Association of Broadcasters (Louisiana)
McClatchy Newspapers (McClatchy)
Metromedia, Inc. (Metromedia)
Mt. Mansfield Television, Inc. (Mt. Mansfield)
National Association of Broadcasters (NAB)
National Association of Educational Broadcasters** (NAEB)
National Broadcasting Company, Inc. (NBC)
National Organization for Women (NOW)
National Urban League (Urban League)
Norbertine Fathers (Norbertine)
North Carolina Association of Broadcasters, Inc. (North Carolina)
Paducah Newspapers, Inc. (Paducah)
Plough Broadcasting Company, Inc. (Plough)
Radio Station WGBF, Inc. (WGBF)
Radio Station WHAR (WHAR)
Ranchland Broadcasting Company, Inc. (Ranchland)
Sonderling Broadcasting Corporation, *et al.** (Sonderling)
- Sonderling Broadcasting Corporation
- Nationwide Communications, Inc.
- Midwest Radio-Television, Inc.
- The Baltimore Radio Show, Inc.

North Alabama Broadcasters, Inc.
Gross Telecasting, Inc.
Gross Telecasting of Wisconsin, Inc.
Eagle Broadcasting Corporation
Key Television, Inc.
Triangle Broadcasting Corp.
Student Task Force Against Telecommunication Information Concealment (STATIC)
Storer Broadcasting Company (Storer)
Stuart Broadcasting Company (Stuart)
Television Station WJBF–TV (WJBF–TV)
Office of Communication of the United Church of Christ (United Church)
The Urban Law Institute of Antioch College (Urban Law)
Westinghouse Broadcasting Company, Inc. (Westinghouse)
WGAL Television, Inc. *et al.* (WGAL)
WGAL Television, Inc.
WGAL, Inc.
Associated Broadcasters, Inc.
Delmarva Broadcasting Co.
WGN Continental Broadcasting Company (WGN)
WHAR Radio (WHAR)
Wilkes Broadcasting Company, *et al.* (Wilkes)
Wilkes Broadcasting Company
Sentinel Broadcasting Company
WDSL, Inc.
WRVB–FM
WSAU–TV, *et al.* (WSAU–TV)
WSAU–TV, Wausau, Wisc.
KCAU–TV, Sioux City, Iowa
WTOK–TV, Meridian, Miss.
KMTV, Omaha, Nebraska
KGUN–TV, Tucson, Ariz.
KFIZ–TV, Fond du Lac, Wisc.
WKRG–TV, Mobile, Ala.
WAFB–TV, Baton Rouge, La.
WTRF–TV, Wheeling, W.Va.
WKNX–TV, Saginaw, Mich.
KJEO–TV, Fresno, Calif.
WRAU–TV, Peoria, Ill.
WMTV, Madison, Wisc.
WAKR–TV, Akron, Ohio
KMEX–TV, San Antonio, Tex.
KMEX–TV, Los Angeles, Calif.
WXTV, Paterson, N.J.
WLTV, Miami, Fla.
WICS–WICD, Springfield-Champaign, Ill.
WTVO, Rockford, Ill.
WHNB–TV, New Britain, Conn.
WSIL–TV, Harrisburg, Ill.
WDAM–TV, Laurel, Miss.
WCFT–TV, Tuscaloosa, Ala.
KZTV, Corpus Christi, Tex.
WCTV, Tallahassee, Fla.
KOAA–TV, Pueblo, Colo.
KTSB–TV, Topeka, Kansas.
WUAB, Inc. (WUAB)

APPENDIX B

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 1—Practice and Procedure

§ 1.516 [Amended]

1. In § 1.516(e)(1), the first proviso is amended by changing "60th" to "90th" where it appears.

2. In § 1.526, the introductory text of paragraph (a) is amended and subparagraphs (6), (7), (8), and (9) are added, and the introductory text of paragraph (e) is amended to read as follows:

§ 1.526 Records to be maintained locally for public inspection by applicants, permittees, and licensees.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraph (1) of this paragraph, every permittee or licensee of a station in the broadcast services shall maintain for public inspection a file for such station containing the material in subparagraphs (1), (2), (3), (4), (5), (6), and (7) of this paragraph, and every permittee or licensee of a commercial television station shall maintain for public inspection a file for such station containing the material in subparagraphs (8) and (9) of this paragraph: *Provided, however,* That the foregoing requirements shall not apply to applicants for or permittees or licensees of television broadcast translator stations, FM broadcast translator stations, or FM broadcast booster stations. The material to be contained in the file is as follows:

* * * * * * *

(6) The Public and Broadcasting Procedural Manual (see FCC 72-829, 37 FR 20510, Sept. 29, 1972).

(7) Letters received from members of the public as are required to be retained by § 73.1202.

(8) A copy of the Annual Programming Report containing composite week programming information.

(9) A copy of the current annual listing of what the licensee or permittee believes to have been significant problems and needs of the area served by the station during the preceding twelve months. No more than ten problems and needs are to be included in the listing. Opposite each problem or need listed, licensees or permittees shall indicate and briefly describe typical and illustrative programs or program segments aired during the preceding twelve months designed to help meet that problem or need. Such description shall include source and time of broadcast. Licensees or permittees are to place these listings in the public file each year on the anniversary date on which renewal applications are due; *Provided, however,* That upon filing a renewal application, the listings for the current license period, including the most recent listing which shall be simultaneously placed in the local file, shall be forwarded to the Commission as a part of the renewal application. The listings are not to exceed five pages but may be supplemented by additional material placed in the public inspection file, identified as a continuation of the information submitted to the Commission and subject to Commission inspection.

* * * * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the periods specified in §§ 73.120(d), 73.290(d), 73.590(d), and 73.657(d) of this chapter (2 years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in § 73.1202 (3 years). The records specified in paragraph (a)(1), (2), (3), (5), (6), (7), (8), and (9) of this section shall be retained as follows:

* * * * * * *

104-012—73——12

3. Section 1.539(a) is amended to read as follows:

§ 1.539 Application for renewal of license.

(a) Unless otherwise directed by the Commission, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed, except that applications for renewal of license of an experimental or developmental broadcast station shall be filed not later than the first day of the second full calendar month prior to the expiration date of the license sought to be renewed. If any deadline prescribed in this paragraph falls on a nonbusiness day, the cutoff shall be the close of business of the first full business day thereafter.

* * * * * * *

4. Section 1.580 is amended in paragraph (c) before the first colon of the introductory paragraph; in paragraph (d); in the first sentence of paragraph (i) wherein a colon is substituted for the period and a third proviso is added; in paragraph (j) and in paragraph (m). The amended text reads as follows:

§ 1.580 Local notice of the filing of broadcast applications, and timely filing of petitions to deny them.

* * * * * * *

(c) Except as otherwise provided in paragraph (e) of this section, an applicant filing any application or an amendment thereto which is subject to the provision of this section (except for applications for renewal of an operating broadcast station, applications for stations in the international broadcast service, television translator stations, FM translator stations, and FM booster stations) shall cause to be published a notice of such filing as follows: * * *

(d) If the application seeks modification, assignment or transfer of an operating broadcast station (except for applications for stations in the international broadcast service, television translator stations, FM translator stations and FM booster stations), or is an amendment of an application for renewal of a broadcast station license, the applicant shall, in addition to publishing a notice of such filing as provided in paragraph (c) of this section, cause the same notice to be broadcast over that station at least once daily on 4 days in the second week immediately following the tendering for filing of such application, or in the second week immediately following notification by the Commission pursuant to §§ 1.571, 1.572, 1.573, or 1.578. In the case of applications for the renewal of broadcast station licenses, but not amendment thereof, during the period beginning on the first day of the sixth full calendar month prior to the expiration of the license to the date on which the application is filed, all applicants shall broadcast the following announcement every fifteenth day (stations broadcasting primarily in a foreign language should broadcast the announcements in that language):

> On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.
>
> Our license will expire on (*date*). We must file an application for license renewal with the FCC (*date four calendar months prior to expiration date*). When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last three years and projections of our programming during the next three years.
>
> Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the Commission by (*date first day of last full calendar month prior to the month of expiration*).
>
> Further information concerning the Commission's broadcast license renewal process is available at (*address of location of the station's public inspection file*) or may be obtained from the FCC, Washington, D.C., 20554.

(1) This announcement shall be made during the following time periods:
(i) For commercial television stations—at least two of the required announcements between 6 PM and 11 PM (5 PM and 10 PM Central and Mountain Time).
(ii) For standard and FM broadcast stations—at least two of the required announcements between 7 AM and 9 AM and/or 4 PM and 6 PM. For stations which neither operate between 7 AM and 9 AM nor between 4 PM and 6 PM, at least two of the required announcements shall be made during the first two hours of broadcast operation.
(iii) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.
(2) During the period beginning on the date in which the renewal application is filed to the first day of the last full calendar month prior to the expiration of the license, all applicants for the renewal of broadcast station licenses shall broadcast the following announcement every fifteenth day (stations broadcasting primarily in a foreign language should broadcast the announcements in that language):

> On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.
>
> Our license will expire on (*date of expiration*). We have filed an application for license renewal with the FCC.
>
> A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last three years and projections of our programming during the next three years.
>
> Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the Commission by (*date first day of last full calendar month prior to the month of expiration*).
>
> Further information concerning the Commission's broadcast license renewal process is available at (*address of location of station's public inspection file*) or may be obtained from the FCC, Washington, D.C., 20554.

(3) This announcement shall be made during the following time periods:
(i) For commercial television stations—at least three of the required announcements between 6 PM and 11 PM (5 PM to 10 PM Central and Mountain Time), at least one announcement between 9 AM and 1 PM, at least one announcement between 1 PM and 5 PM, and at least one announcement between 5 PM and 7 PM.
(ii) For standard and FM broadcast stations—at least three of the required announcements between 7 AM and 9 AM and/or 4 PM and 6 PM, at least one announcement between 9 AM and 12 PM, at least one announcement between 12 PM and 4 PM, and at least one announcement between 7 PM and midnight. For stations which neither operate between 7 AM and 9 AM nor between 4 PM and 6 PM, at least three of the required announcements shall be made during the first two hours of broadcast operation.
(iii) For noncommercial educational stations, at the same time as commercial stations, except that such stations need not broadcast the announcement during any month during which the station does not operate.
(4) In the case of television broadcast stations and noncommercial educational television stations, signboards with the licensee's address and the Commission's Washington address shall be shown when the addresses are being given by the announcer.
(5) During the period beginning on the first day of the sixth full calendar month prior to the expiration of the broadcast station license up to the first day of the last full calendar month prior to expiration, the public notice requirements under § 73.1202 of this chapter do not apply.

* * * * * * *

(i) * * * *And provided further,* That requests for extension of time to file petitions to deny applications for renewal of license will not be granted unless all parties concerned, including the renewal applicant, consent to such requests, or unless a compelling showing can be made that unusual circumstances make the filing of a timely petition impossible and the granting of an extension warranted.

(j) The applicant may file an opposition to any petition to deny, and the the petitioner a reply to such opposition in which allegations of fact or denials thereof shall be supported by affidavit of a person or persons with personal knowledge thereof. The times for filing such oppositions and replies shall be those provided in § 1.45 except that as to a petition to deny an application for renewal of license, an opposition thereto may be filed within 30 days after the petition to deny is filed, and the party that filed the petition to deny may reply to the opposition within 20 days after the opposition is due or within 20 days after the opposition is filed, whichever is longer.

* * * * * * *

(m) Paragraphs (a) through (k) of this section apply, without change, to major amendments to license renewal applications, to which § 1.578(a) applies.

(Sec. 5(a), 74 Stat. 892; 47 U.S.C. 311)

APPENDIX C

Part 73, Subpart H, of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 73—Radio Broadcast Services

Section 73.1202 is added new to read as follows:

§ 73.1202 Public notice of licensee obligations.

(a) Each licensee of a commercial AM, FM or television station except international or television translator stations, shall make an announcement informing the public of the licensee's obligation to the public and of the appropriate method for individuals to express their opinions of the station's operation. Such announcements shall be aired at least once every fifteenth day throughout the license period except during the period beginning on the first day of the sixth full calendar month prior to expiration and ending on the first day of the last full calendar month prior to expiration, during which time the renewal application notices in § 1.580(d) of this chapter shall be broadcast. Such announcements shall be aired during the following two-hour time periods in the following rotating order:

(1) For commercial television stations, the announcements shall alternate between the 6 PM to 11 PM time period (5 PM to 10 PM Central and Mountain Time) and the following two-hour time periods in rotating order: 7 AM to 9 AM, 9 AM to 11 AM, 11 AM to 1 PM, 1 PM to 3 PM, 3 PM to 5 PM, 5 PM to 7 PM, and 10 PM to 12 AM.

(2) For standard and FM broadcast stations; the announcements shall alternate between the 7 AM to 9 AM and/or 4 PM to 6 PM time periods and the following two-hour time periods in rotating order: 5 AM to 7 AM, 9 AM to 11 AM, 11 AM to 1 PM, 1 PM to 3 PM, 5 PM to 7 PM, 7 PM to 9 PM, 9 PM to 11 PM, 11 PM to 1 AM. For stations which neither operate between 7 AM to 9 AM nor between 4 PM to 6 PM, the announcements shall alternate between the first two hours of broadcast operation and every other two-hour time period during the broadcast day in rotating order, beginning with sign on.

(b) If an emergency arises which prevents the airing of the announcement at the scheduled time, the announcement shall be aired on the day following the ending of such emergency at the identical time or during the time period which the rotating order specified above requires.

(c) In the case of commercial television broadcast stations, a signboard with the licensee's address for receiving comments shall be shown when the announcer is giving that address.

(d) The notice shall contain the following information (stations broadcasting primarily in a foreign language should broadcast the announcements in that language):

(1) *For commercial radio stations:*

(i) The station's call letters.

(ii) A statement that on (*give date of last renewal grant*) the station was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.

(iii) A statement that the broadcaster is obligated to make a continuing, diligent effort to determine the significant problems and needs of his service area and to provide programming to help meet those problems and needs.

(iv) A statement that the station invites any specific suggestions or comments listeners may have regarding station operation and the licensee's programming efforts.

(v) The appropriate name and address to which comments should be mailed.

(vi) A statement that unless otherwise requested, all letters received will be made available for public inspection during regular business hours.

(2) *For commercial television stations:*

(i) The station's call letters.

(ii) A statement that on (*give date of last renewal grant*) the station was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee.

(iii) A statement that (*give the anniversary date of the deadline for filing of the renewal application*) the station places in its public inspection file a list of what the licensee considered to have been some of the significant problems and needs of his service area during the preceding twelve months and some of the programs the station aired to help meet those problems and needs.

(iv) A statement that the station invites any specific suggestions or comments viewers may have regarding station operation and the licensee's programming efforts.

(v) The appropriate name and address to which comments should be mailed.

(vi) A statement that unless otherwise requested, all letters received will be available for public inspection during regular business hours.

(e) During the period between the first day of the last full calendar month prior to expiration of the license and the date of license renewal, stations shall broadcast the appropriate announcement herein except for the mention of the date of the last renewal grant. Commencing on the fifteenth day following the date of renewal, the regular announcement shall be resumed and shall be broadcast every fifteenth day thereafter.

(f) All written comments and suggestions received from members of the public concerning operation of the station shall be maintained in a local file available for inspection by the public, except when the person making the comment or suggestion has specifically requested that his communication not be made public or where the licensee feels that it should be excluded from availability for public inspection because of the special nature of its content, such as a defamatory or obscene letter. Letters shall be retained in the local file for three years from the date on which they are received by the licensee. Letters received by television licensees shall be placed in one of the following separated subject categories: programming and non-programming. If comments in one letter relate to more than one subject category, the correspondence shall be filed under the category which, in the licensee's judgment, receives the most attention in the letter.

(1) *Sample announcement for radio:*

> On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee. We are obligated to make a continuing, diligent effort to determine the significant problems and needs of our service area and to provide programming to help meet those problems and needs.

We invite listeners to send specific suggestions or comments concerning our station operation and programming efforts to (*name and mailing address*). Unless otherwise requested, all letters received will be available for public inspection during regular business hours.

(2) *Sample announcement for television:*

On (*date of last renewal grant*) (*Station's call letters*) was granted a three-year license by the Federal Communications Commission to serve the public interest as a public trustee. Each (*anniversary date of deadline for filing renewal application*) we place in our public inspection file a list of what we consider to have been some of the significant problems and needs of our service area during the preceding twelve months and some of our programming to help meet those problems and needs.

We invite viewers to send specific suggestions or comments concerning our station operation and programming efforts to (*name and mailing address*). Unless otherwise requested, all letters received will be available for public inspection during regular business hours.

FCC Form
July 1972

1973

FORM APPROVED
OMB NO.

United States of America
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

ANNUAL PROGRAMMING REPORT

All commercial television broadcast permittees must file this form annually before September 1. Amount of time should be rounded to nearest minute. Commercial matter should be *included* for all entries in the "total time operating" line (line a.), and should be *included* in computing time devoted to the "news", "public affairs" and "all other" categories. (Use a 1-minute news program containing 3 minutes of commercial matter should be counted as 18 minutes of news time.)

CERTIFICATE

I certify that I am _____
(Official title)
of _____
(Exact legal title or name of licensee or permittee)
that I have examined the report, that to the best of my knowledge, information, and belief, all statements of fact contained in the report are true and the report is a correct statement of the business and affairs of the above-named respondent, in respect to each and every matter set forth herein.

_____, 19__
(Signature of respondent)

Any person who willfully makes false statements on this report can be punished by fine or imprisonment. U. S. Code, Title 18, Section 1001 (formerly 47 Cod 83).

CALL LETTERS	CHANNEL	LICENSEE'S NAME	STATION LOCATION (CITY, STATE)	NETWORK AFFILIATION

MOST RECENT COMPOSITE WEEK DATA (1)	FROM 6AM TO MIDNIGHT				FROM 6PM TO 11PM (5:00 to 10:00 Central and Mountain Time)			
	ALL PROGRAMS		LOCAL PROGRAMS ONLY		ALL PROGRAMS		LOCAL PROGRAMS ONLY	
	MINUTES OF OPERATION (2)	PERCENTAGE OF TOTAL TIME OPERATING (3)	MINUTES OF OPERATION (4)	PERCENTAGE OF TOTAL TIME OPERATING (5)	MINUTES OF OPERATION (6)	PERCENTAGE OF TOTAL TIME OPERATING (7)	MINUTES OF OPERATION (8)	PERCENTAGE OF TOTAL TIME OPERATING (9)
a. TOTAL TIME OPERATING		100%		1/		100%		2/
b. NEWS		1/		1/		2/		2/
c. PUBLIC AFFAIRS		1/		1/		2/		2/
d. ALL OTHERS (Exclusive of entertainment and sports)		1/		1/		2/		2/

1/ Percentages are of the total minutes of operation reported at the top of Column 2.
2/ Percentages are of the total minutes of operation reported at the top of Column 6.

APPENDIX E

NEW SECTION IV–B OF FORM 303

Note: At the beginning of Section IV–B of Form 303 licensees will be instructed to limit the length of the Exhibits sent to the Commission to two pages, with the exception of Exhibits which may be submitted in response to Question 7. Exhibits in response to Question 7B and/or Question 7C will be limited to five pages (as will the annual lists referred to in Question 1A).

The instructions will make it clear that licensees may (at their option) supplement the information contained in the Exhibits sent to the Commission by placing in their public inspection file additional material, identified as a continuation of the information submitted to the Commission and subject to Commission inspection. The instructions will also emphasize that before the Commission would make an adverse finding regarding a renewal application, the licensee in question would be permitted to supplement his initial showing to the Commission by submitting any additional material which may be relevant, including (but not necessarily limited to) the additional material which may have already been placed in the public file.

1. The applicant has familiarized himself with Section 1.526(a)(9) of the Commission's Rules and with the Commission's current requirements regarding the ascertainment of the problems and needs of his service area and in light of their provisions does hereby certify that:

A. In accordance with Section 1.526(a)(9) he has placed in his public inspection file at the appropriate times his annual lists for the current license period of significant problems and needs of his service area and typical and illustrative programs aired to help meet each of these problems and needs, and he has submitted with this renewal application copies of each of these lists;

B. He has made good faith efforts to ascertain the problems and needs of the public within his service area in accordance with the current guidelines of the Commission and upon the filing of this application, has placed in the station's public inspection file the appropriate materials regarding those ascertainment efforts.

2. In Exhibit — the applicant may (at his option) list any problem or need which, as the result of his recent ascertainment efforts, he believes will be *added to* his next annual list of significant problems and needs of his service area, and any program or programs he plans to broadcast during the next twelve months devoted to that problem or need.

3. In Exhibit — the applicant may (at his option) describe the procedures he has or proposes to have for the consideration and disposition of complaints or suggestions from members of the public.

4. State for the most recent composite week (a) the total number of public service announcements, (b) the number of public service announcements involving local organizations and (c) the number of public service announcements aired between 8 AM–11 PM.

5.A. If during the license period the applicant was affiliated with one or more national television networks, indicate below the name of the network or networks and the date of affiliation.

B. If a network affiliate, did the applicant regularly carry (i.e. carry more than 50% of the programs offered during the current license period) available network:

	Yes	No
(1) News	☐	☐
(2) Public Affairs	☐	☐

6. In Exhibit — give a brief description of programs, program segments or program series aired during the license period that were primarily directed to children twelve years old and under. Indicate the source, time and day of broadcast duration, and program type.

7. A. In the applicant's judgment, does the information supplied in the Annual Programming Reports submitted during the current license period, the information supplied in the annual listings of programs and program segments aired to help meet significant problems and needs of the service area for the current license period, and the information supplied in Questions 4, 5 and 6 of this form adequately reflect his programming during the current license period. Yes — No —.

B. If "no," the applicant may attach as Exhibit—such additional information (including the listing of entertainment programs the applicant considers to be of special merit) as may be necessary to describe accurately and present fairly his program service.

C. If the applicant's programming reflected in the Annual Programming Reports submitted during the current license period varied substantially from the programming representations made in his last renewal application, the applicant may submit as Exhibit — a statement explaining the variations and the reasons therefor.

PROPOSED PROGRAMMING

8. Using the form below state the minimum amount of time the applicant proposes to devote to the categories (see Definitions) listed. Commercial matter within a program segment should be included in computing time devoted to that particular program segment.

Composite Week Data (1)	All Programs		Local Programs Only	
	Minutes (2)	% of Total Time Operating 1/ (3)	Minutes (4)	% of Total Time Operating 1/ (5)
Total time operating		100%		1/
News		1/		1/
Public Affairs		1/		1/
All Other (exclusive of entertainment and sports)		1/		1/

1/ All percentages are of the total time found at the top of Column 2 in the check box

9. Using the form below state the minimum amount of time the applicant proposes to devote normally each week between the hours of 6–11 PM (5–10 PM Central and Mountain Time) to the categories (see Definitions) listed. Commercial matter within a program segment should be included in computing time devoted to that particular program segment.

Composite Week Data for 6 - 11 PM Time Period	All Programs		Local Programs Only	
	Minutes	% of Total Time Operating	Minutes	% of Total Time Operating 11/
Total time operating during 6 - 11 PM		100%		11/
News during 6 - 11 PM				11/
Public Affairs during 6 - 11 PM				11/
All Other (exclusive of entertainment and sports) during 6 - 11 PM				11/

11/ All percentages are of the total time operating between 6 - 11 PM, found at the top of Column 2 in the check box

10. State (a) the minimum total number of public service announcements, (b) the minimum number of public service announcements involving local organizations and (c) the minimum number of public service announcements aired between 8 AM–11 PM which the applicant proposes to present during a typical week.

PAST COMMERCIAL PRACTICES

11. State the number of 60-minute segments of the most recent composite week (beginning with the first clock hour and ending with the last full clock hour of each broadcast day) containing the following amounts of commercial matter.

A. Up to and including 8 minutes_____
B. Over 8 and up to and including 12 minutes_____
C. Over 12 and up to and including 16 minutes_____
D. Over 16 minutes_____

List each segment in category D above, specifying the amount of commercial time in the segment, and the day and time broadcast:

12. State the number of 60-minute segments between the hours of 6 PM and 11 PM (5 PM to 10 PM Central and Mountain Time) of the most recent composite week containing the following amounts of commercial matter.

A. Up to and including 8 minutes_____
B. Over 8 and up to and including 12 minutes_____
C. Over 12 and up to and including 16 minutes_____
D. Over 16 minutes_____

List each segment in category D above, specifying the amount of commercial time in the segment, and the day and time broadcast:

13. In the applicant's judgment, does the information supplied in Questions 11 and 12 for the composite week adequately reflect its commercial practices? Yes___ No___.

B. If "no," applicant may attach as Exhibit ___ such additional material as may be necessary to describe adequately and present fairly its commercial practices.

C. If the applicant's commercial practices for the period covered by Questions 11 and 12 varied substantially from the representations made in the applicant's last renewal application, the applicant shall explain in Exhibit ___ the variations and the reasons therefor.

PROPOSED COMMERCIAL PRACTICES

14. What is the maximum amount of commercial matter in any 60-minute segment which the applicant proposes normally to allow_____

If the applicant proposes to permit this amount to be exceeded at times, state under what circumstances and how often this is expected to occur, and the limits that would then apply.

15. What is the maximum amount of commercial matter in any 60-minute segment between the hours of 6 PM and 11 PM (5 PM and 10 PM Central and Mountain Time) which the applicant proposes normally to allow_____

If the applicant proposes to permit this amount to be exceeded at times, state under what circumstances and how often this is expected to occur, and the limits that would then apply.

Statement of Commissioner Robert E. Lee

I join the majority in its decision in this important matter. However, I have reservations with regard to the necessity for the filing of annual statements by licensees. Were licenses to be of 5-year duration, perhaps such a periodic review would be warranted.

Under present circumstances, I consider that the requirement adds little to our administrative processes but much to the mountains of paper lodged in our Agency.

CONCURRING STATEMENT OF COMMISSIONER NICHOLAS JOHNSON

The new license renewal application package adopted today solves a few of the regulatory problems that have arisen in the past from deficiencies or ambiguities in our application forms and procedures. I concur in this action as an absolutely necessary one, but I would also caution that, while these changes give us something better than we have now, they fall far short of the procedural *and* substantive changes we need to make before we can engage in any meaningful regulation of the broadcaster's fulfillment of his public interest obligations.

This Commission has chosen to regulate broadcasters in this country, in all areas but those concerning editorializing and the coverage of controversial issues, on a quantitative rather than a qualitative basis. Programming content is nowhere an issue in the license renewal process except where the licensee *makes* it an issue by personal attack or editorializing. Even the fairness doctrine, once the content of an issue has been deemed controversial, looks only to a quantitative fairness in a licensee's coverage of that issue, not to the quality of that coverage. And in areas where the public interest would seem to require a certain minimum vigilance over content, as in programming affecting the minds and emotions of our children, we have moved as a Commission at a pace so excruciatingly slow we may *never* see significant reforms.

If we assume, then, that the outer limits of our regulation of the public interest responsibilities of broadcast licensees will be quantitative ones, the very least we can do is assure that the quantitative data we are given are as complete and helpful as possible. This has not been the case with previous renewal applications. The new form admirably attempts to remedy some of the previous shortcomings.

It will now be possible, for example, to get more useful information about the amount of news, public affairs and local programming, and the time at which it is broadcast. It will not be so easy for a station to run dozens of public service announcements at 2:00 AM and claim large numbers in their application, since we will be getting a breakdown of time of day for psa's. In addition, the new application will tell us how much psa effort the station is making on behalf of *local* organizations. We will have more information, also broken down by time of day, on the extent of a station's commercialization. And with the badly needed annual reporting forms we will be able to get certain types of information for a greater length of time within the three-year renewal period. To take public affairs programming as an example, where the old application gave us only the total hours of public affairs in one seven-day composite week for three full years of a license renewal term, the new forms will allow us to view the quantity of *local* public affairs programming in *prime time* for seven days in *each year* of the renewal period.

There are, however, deficiencies in the current renewal package which should not go unnoticed. While we do have a question for the first time on clearance of network news and public affairs, for example, it requires only that the station note whether it "carried more than 50%" of such programming. Since news and public affairs are conceivably the only "services" actually supplied by the network to the viewer, and the number of those programs is so few, I feel we should ask which

programs, by name and date, were and were not carried, and (when pre-empted) what was carried in their stead. To carry local public affairs instead of network is one thing; constantly to substitute more lucrative old movies is something else.

The question on children's programming, while it is also actually *present* in the application for the first time, is even more significantly watered down from the originally proposed version, in two important ways: first, it no longer requires the broadcaster to discuss what it is doing for specific age groups of children; second, it no longer asks which programs the broadcaster feels are *designed for* children, but only which are *directed to* them.

In other areas this "package" also represents a watered down version of what *should* be required in the license renewal process. The rule originally proposed regarding public announcements, for example, would have required an announcement to the public once every eight days in prime time; the rule which is passed today requires such announcements only once every 15 days, and prime time announcements are required only every 30 days, with no increase in frequency during the period in which the licensee is actually applying for renewal. Since the public is rapidly becoming an important and integral part of the renewal process, this represents an attempt by the Commission to keep such public participation to an absolute minimum. So, too, does the apparent Commission concern over keeping the text of the announcement short—which betrays a far greater sympathy for the licensee than for the public in whose interest we are supposed to regulate. That "concern" also manifests itself in our tenuous commitment to keeping a public file of letters received in response to the public announcements: for television stations, we require only that they divide the letters into programming and non-programming categories; for radio, we require only that they *keep* the letters and make them available to anyone who wishes to inspect them—and we note that even this "burden" may be eliminated within a year if the radio licensees cry loudly enough about it.

Ultimately, it was the concept of better regulating the public interest service of the broadcaster that motivated the changes we find today in this "package." But if that motivation is to be a sincere one, we cannot stop with a few changes in the format of our data collection process. We must look as well to alterations in the way in which we *utilize* renewal application information, in the way in which we determine which applicant to renew and which deserves at least a further inquiry into his practices. We could have done it within the context of this proceeding, since a key early element in these changes was the establishment of certain program priorities which, if met by the applicant, could result (absent other objections) in automatic renewal of the license. Applicants not meeting the priorities would have been isolated by a computer, and at least the worst offenders singled out for some further inquiry. Somehow, that element never came to a vote, but was quietly dropped along the way with lip service to the current "good faith," "case-by-case" method of processing in which non-regulation is more often the order of the day.

It is one thing to do as we have done today and move towards the acquisition of a more valuable set of regulatory data; it is quite an-

other to develop a logical, intelligent regulatory method for processing that data. Having demonstrated, by today's small procedural improvements, a sincere desire to strengthen our approach to the broadcast renewal process, we should not leave the job half done by refusing to re-examine our substantive renewal criteria as well.

I concur in today's action because I believe it does constitute a small step forward. After seven years of idealistic hope and effort to bring meaningful responsibility into the FCC's license renewal process, however, my enthusiasm for today's tiny gesture in that direction is, perhaps understandably, somewhat restrained.

CONCURRING STATEMENT OF COMMISSIONER H. REX LEE

I concur in the decision to revise our policies and procedures relating to the renewal of broadcast licenses. As indicated in the Commission's *Notice of Inquiry and Notice of Proposed Rule Making in Docket No. 19153*, 27 FCC 2d 697 (1971), our purpose here is to simplify the renewal process by concentrating on the essential elements of broadcast service to the public, by encouraging a continuing dialogue between a licensee and his community throughout the license period and by providing for more orderly procedures in the consideration of petitions to deny renewal applications. Hopefully, the action taken by the Commission will insure that broadcast licensees remain conversant with and attentive to community problems, needs and interests and will stimulate public participation in the operation of broadcast stations so that differences may be resolved on the local level. Admittedly, the revised policies and procedures contained in the *Report and Order* are detailed and quite specific and may appear to be somewhat inconsistent with our recent efforts to ease administrative burdens—but they are intended to improve the renewal process for both broadcast licensees and the public they serve. If our action here fails to produce the desired results or imposes unreasonable burdens on either the public or our licensees, I would expect the Commission to reexamine the impact of its renewal regulation in a timely fashion.

CONCURRING STATEMENT OF COMMISSIONER RICHARD E. WILEY

I concur in the Commission's action because, basically, I believe that it serves the public interest by promoting broadcaster-audience dialogue while, at the same time, reducing the paperwork required in our present Renewal Form 303. While I feel this end product of a prolonged effort to improve our renewal process has been immeasurably improved by suggestions which some of my colleagues and I have made over the course of the last year, I still have certain reservations of which I would like briefly to make note.

My major concern has been with the adoption of an annual reporting form. While such a process may yield worth-while statistical information, I have questioned whether—contrary to the intent of our re-regulation program to reduce unnecessary administrative burdens on busy licensees—we are creating an additional responsibility without a clear understanding of the corresponding regulatory objective to be attained thereby; whether the statistical data obtained may be utilized

to compare, perhaps unfairly, unlike stations in diverse markets and circumstances; and, finally, whether such a report may become the vehicle for an annual renewal. In this regard, I am heartened by certain changes which have been made in the report form and, most importantly, by the Commission's forthright statement that it does not intend to utilize the annual programming statistics to "rank" stations nor to otherwise transform such information into a yearly evaluation for renewal purposes (see paragraphs 114 and 121).

I also would have preferred to delete a question on the new renewal form concerning affiliate carriage of network news and public affairs programs. While I can appreciate that responses to such a question may be of some informational benefit to the Commission, I am concerned that affiliates may be inhibited somehow in the exercise of legitimate licensee discretion. I am mollified, however, by the Commission's explanation (see paragraph 160) that failure to carry network programming does not *ipso facto* represent a failure to serve viewers and that clearance of any particular network offering does not necessarily imply that the public interest is being served. As we have consistently held, programming decisions ultimately must be made by individual licensees in response to local community problems and needs, and such a responsibility is both personal and nondelegable.

My own preference also would have been to exclude radio licensees from the obligation to retain letters, comments and written suggestions in the public file until an assessment could have been made of the experience of television licensees in this regard. While a retention requirement (particularly without categories) may constitute no unreasonable burden on small market radio operators, I believe the Commission was prudent in issuing a directive to our Re-regulation Task Force (see paragraph 51) to evaluate the usefulness of such a provision after one year's experience. In keeping with our customary practice, relevant comments of broadcasters and members of the public will be welcomed. In connection with the retention requirement for television operators, I am pleased that the Commission saw fit to reduce the necessary categorization of correspondence from a burdensome seven different areas to only two (paragraph 54).

Finally, there were a number of other relatively minor matters which I would have resolved differently (e.g., combining news and public affairs into a single category; including rather than excluding ordinary news inserts in compiling statistics; deleting the reference to "live talent" in the definition of "local program", etc.). On balance, however, I believe that the overall purpose of shortening and streamlining our renewal application (especially the elimination of unnecessary questions and the establishment of exhibit page limitations with the opportunity to supplement in the event of challenge), and of encouraging and implementing effective and continuing dialogue between licensee and public, warrants my support. In the final analysis, I believe that the document, as adopted, represents a productive effort to achieve these dual objectives. Moreover, I am convinced that, to the extent experience dictates the need for changes in our program, this Commission will be responsive in accordance with what the public interest may require.